

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE NO. SB-14-CRM-
0002

*For: Violation of Section 3(a) of Republic
Act No. 3019, as amended*

CRIM. CASE NO. SB-14-CRM-
0003 to 0007

*For: Violation of Section 3(e) of Republic
Act No. 3019, as amended*

- versus -

CRIM. CASE NO. SB-14-CRM-
0008 to 0010

*For: Illegal Use of Public Funds or
Property under Article 220 of the Revised
Penal Code*

P/DIR. ELISEO DECENA DELA
PAZ, ET AL.,

Accused.

Present:

HERRERA, Jr., J., Chairperson

MUSNGI, J., Associate Justice

PAHIMNA, J., Associate Justice

*FERNANDEZ, J., Associate Justice

*HIDALGO, J., Associate Justice

October 18, 2019
Promulgated

RESOLUTION

MUSNGI, J.:

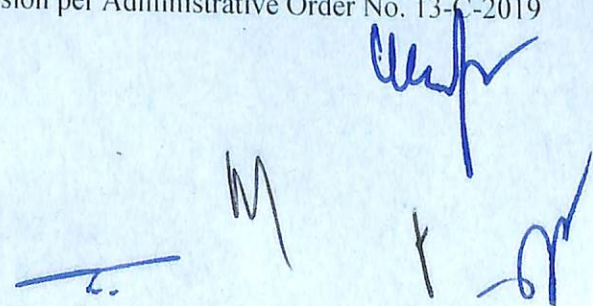
The Court resolves the following:

- (1) *Demurrer to Evidence*¹ filed by accused P/Dir. Jaime Garcia Caringal (“**Caringal**”) on 17 May 2019 for Criminal Case No. SB-14-CRM-0003;
- (2) *Joint Demurrer to Evidence*² filed on 20 May 2019 by accused P/Dep. Dir. Gen. Ismael R. Rafanan (“**Rafanan**”) for Criminal Case No. SB-14-CRM-0003; and accused P/Chief Supt. Orlando L. Pestaño (“**Pestaño**”) and P/Supt. Samuel P. Rodriguez

*Designated as Special Members of the Second Division per Administrative Order No. 13-C-2019 dated 16 September 2018.

¹ Sandiganbayan Records, Vol. 9, pp. 442-470.

² *Ibid.*, pp. 471-485.



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(“Rodriguez”) for Criminal Cases Nos. SB-14-CRM-0002 and SB-14-CRM-0005 to SB-14-CRM-0010;

- (3) *Demurrer to Evidence*³ filed by accused P/Sr. Supt. Tomas G. Rentoy III (“Rentoy”) on 20 May 2019 for Criminal Cases Nos. SB-14-CRM-0002 and SB-14-CRM-0005 to SB-14-CRM-0010;
- (4) *Demurrer to Evidence*⁴ filed by accused P/Dep. Dir. (Ret.) Romeo T. Ricardo (“Ricardo”) on 17 May 2019 for Criminal Cases Nos. SB-14-CRM-0003 and SB-14-CRM-0004;
- (5) *Demurrer to Evidence*⁵ filed by accused P/Dir. Eliseo Dela Paz (“Dela Paz”) on 17 May 2019 for Criminal Cases Nos. SB-14-CRM-0002, SB-14-CRM-0003, and SB-14-CRM-0005 to SB-14-CRM-0010;
- (6) *Demurrer to Evidence*⁶ filed by accused P/Dir. German Doria (“Doria”) on 28 May 2019 for Criminal Case No. SB-14-CRM-0003; and
- (7) *Demurrer to Evidence*⁷ filed by accused P/Dep. Dir. Gen. Emmanuel Carta (“Carta”) dated 21 May 2019 for Criminal Case No. SB-14-CRM-0003.

The accused are being charged under the following *Informations*:

(1) SB-14-CRM-0002 [For: Violation of Section 3 (a) of R.A. No. 3019]

That on September 26, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, Philippine National Police (PNP), while in the performance of his official and administrative functions and as such, committing the offense in relation to office, did then and there willfully, unlawfully and criminally persuade, induce or influence **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the

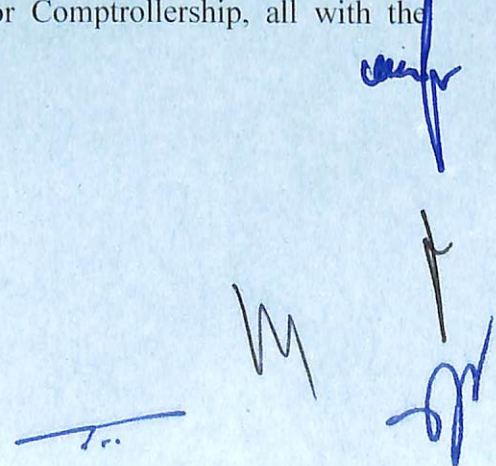
³ *Ibid.*, pp. 580-588.

⁴ *Ibid.*, pp. 547-678.

⁵ *Ibid.*, Vol. 10, pp. 64-81.

⁶ *Ibid.*, pp. 126-136.

⁷ *Ibid.*, pp. 138-148.



Philippine National Police (PNP), to release and disburse, or authorize or allow the release and disbursement of the amount of TEN MILLION PESOS (Php10,000,000.00), Philippine Currency, from the confidential/intelligence fund of the PNP, to be used as contingency fund and travel allowance of the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, knowing fully well that said amount of Php10,000,000.00 was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, and the use thereof as travel allowance or contingency fund of the PNP delegates to Russia is prohibited under Article 220 of the Revised Penal Code, as well as various auditing rules and regulations governing the use of confidential and intelligence funds, and thereafter, accused **RODRIGUEZ, PESTAÑO and RENTOY**, conspiring and confederating with accused **DELA PAZ** and with one another, did then and there willfully, and unlawfully allowing the release and disbursement of the amount of Php10,000,000.00, Philippine Currency, from the confidential/intelligence fund of the PNP, to the damage and prejudice of the State.

CONTRARY TO LAW.

(2) SB-14-CRM-0003 [For: Violation of Section 3 (e) of R.A. No. 3019]

That on October 5, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ROMEO TAPUCAR RICARDO**, being then the Director, Directorate for Plans, Philippine National Police (PNP), **P/DIR. ELISEO DECENA DELA PAZ**, then PNP Director for Comptrollership, **P/DEP. DIR. GEN. EMMANUEL RIVERA CARTA**, then PNP Deputy Chief for Administration, **P/DEP. DIR. GEN. ISMAEL RAMILO RAFANAN**, then PNP Deputy Chief for Operations, **P/DIR. GERMAN BARUT DORIA**, then Director of the Directorate for Human Resource and Doctrine Development and **P/DIR. JAIME GARCIA CARINGAL**, then PNP Regional Director, Police Regional Office IX, Zamboanga Peninsula, while in the performance of their official functions and as such, committing the offense in relation to office, and with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously give unwarranted benefits, advantage and preference to themselves by attending the 77th INTERPOL General Assembly held in St. Petersburg, Russia, from October 7 to 10, 2008, as the PNP delegated therein, and receiving the total sum of ONE MILLION SIX HUNDRED FORTY-FOUR THOUSAND FOUR HUNDRED TWENTY PESOS (Php274,070/each x 6 delegated = Php1,644,420.00), as their travel allowance, knowing fully well that all of herein accused were due to retire within one (1) year from said INTERPOL Assembly and were prohibited, under Section 16, General Provisions of Republic Act 9498, or the General Appropriations Act of 2008, from travelling abroad to attend foreign trainings, conference or international commitments, thereby causing undue injury to the PNP and the government in the aforesaid sum of Php1,644,420.00.

[Handwritten signatures and initials in blue ink]

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CONTRARY TO LAW.

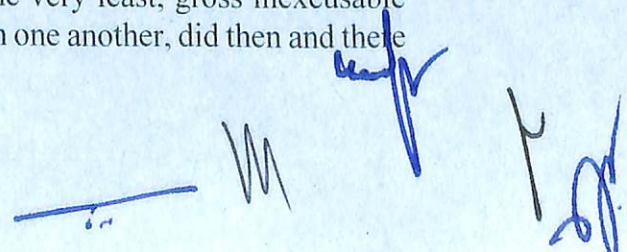
(3) SB-14-CRM-0004 [For: Violation of Section 3 (e) of R.A. No. 3019]

That on August 15, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **P/DIR. ROMEO TAPUCAR RICARDO**, being then the Director, Directorate for Plans, Philippine National Police (PNP), while in the performance of his official and administrative functions and as such, committing the offense in relation to office, and with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to himself and to **P/DIR. ELISEO DECENA DELA PAZ**, then PNP Director for Comptrollership, **P/DEP. DIR. GEN. EMMANUEL RIVERA CARTA**, then PNP Deputy Chief for Administration, **P/DEP. DIR. GEN. ISMAEL RAMILO RAFANAN**, then PNP Deputy Chief for Operations, **P/DIR. GERMAN BARUT DORIA**, then Director of the Directorate for Human Resource and Doctrine Development and **P/DIR. JAIME GARCIA CARINGAL**, then PNP Regional Director, Police Regional Office IX, Zamboanga Peninsula, by recommending and certifying that he and the said police officers named herein are qualified to participate as members of the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, and then allowing himself and the other PNP delegates to receive the total sum of ONE MILLION SIX HUNDRED FORTY-FOUR THOUSAND FOUR HUNDRED TWENTY PESOS (Php1,644,420.00), as their travel allowance, knowing fully well that all of them were due to retire within one (1) year from said INTERPOL Assembly and were prohibited, under Section 16, General Provisions of Republic Act 9498, or the General Appropriations Act of 2008, from travelling abroad to attend foreign trainings, conference or international commitments, thereby causing undue injury to the PNP and the government in the aforesaid sum of Php1,644,420.00.

CONTRARY TO LAW.

(4) SB-14-CRM-0005 [For: Violation of Section 3 (e) of R.A. No. 3019]

That on September 26, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), while in the performance of their official and administrative functions and as such, committing the offense in relation to office, and with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, conspiring and confederating with one another, did then and there



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willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, in the persons of Police Officers Emmanuel R. Carta, Ismael R. Rafanan, Romeo T. Ricardo, Silverio D. Alarcio, Jr., German B. Doria, Eliseo D. Dela Paz, Jaime S. Caringal and Elmer R. Pelobello, by releasing and disbursement (*sic*) of the amount of TWO MILLION ONE HUNDRED NINETY-TWO THOUSAND FIVE HUNDRED SIXTY PESOS (Php2,192,560.00), Philippine Currency, for the travel expenses of the said PNP delegates, despite knowing fully well that the use of the amount of Php2,192,560.00 for said purpose was prohibited by law because said amount was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, thereby causing undue injury to the PNP and the government in the aforesaid sum of Php2,192,560.00.

CONTRARY TO LAW.

(5) SB-14-CRM-0006 [For: Violation of Section 3 (e) of R.A. No. 3019]

That on October 3, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), while in the performance of their official and administrative functions and as such, committing the offense in relation to office, and with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, conspiring and confederating with one another, did then and there willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, in the persons of Police Officers Emmanuel R. Carta, Ismael R. Rafanan, Romeo T. Ricardo, Silverio D. Alarcio, Jr., German B. Doria, Eliseo D. Dela Paz, Jaime S. Caringal and Elmer R. Pelobello, by releasing and disbursing, or authorizing or allowing the release and disbursement of the amount of SEVEN MILLION PESOS (Php7,000,000.00), Philippine Currency, as contingency fund of the said PNP delegates, despite knowing fully well that the use of the amount of Php7,000,000.00 for said purpose was prohibited by law because said amount was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, thereby causing undue injury to the PNP and the government in the aforesaid sum of Php7,000,000.00.

CONTRARY TO LAW.





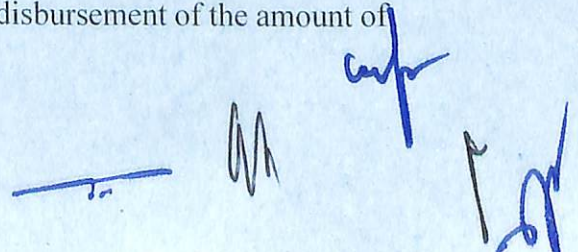
(6) SB-14-CRM-0007 [For: Violation of Section 3 (e) of R.A. No. 3019]

That on September 26, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), while in the performance of their official and administrative functions and as such, committing the offense in relation to office, and with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, conspiring and confederating with one another, did then and there willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, in the persons of Police Officers Emmanuel R. Carta, Ismael R. Rafanan, Romeo T. Ricardo, Silverio D. Alarcio, Jr., German B. Doria, Eliseo D. Dela Paz, Jaime S. Caringal and Elmer R. Pelobello, by releasing and disbursing, or authorizing or allowing the release and disbursement of the amount of Eight Hundred Seven Thousand Four Hundred Forty Pesos (Php807,440.00), Philippine Currency, for the travel or contingency expenses of the said PNP delegates, despite knowing fully well that the use of the amount of Php807,440.00 for said purpose was prohibited by law because said amount was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, thereby causing undue injury to the PNP and the government in the aforesaid sum of Php807,440.00.

CONTRARY TO LAW.

(7) SB-14-CRM-0008 [For: Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

That on September 26, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), and as such, by reason of their positions and duties, are accountable for public funds under their administration, while in the performance of their functions, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously release and disburse, or authorize or allow the release and disbursement of the amount of



TWO MILLION ONE HUNDRED NINETY-TWO THOUSAND FIVE HUNDRED SIXTY PESOS (Php2,192,560.00), Philippine Currency, for the travel expenses of the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, contrary to the purpose for which said public funds have been appropriated, considering that said amount of Php2,192,560.00, was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, to the damage and prejudice of public service.

CONTRARY TO LAW.

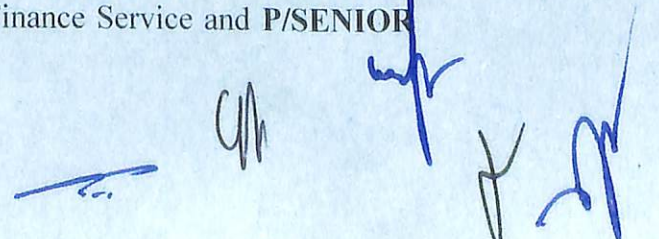
(8) SB-14-CRM-0009 [For: Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

That on October 3, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR SUPT. TOMAS GUNTANG RENTOY III**, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), and as such, by reason of their positions and duties, are accountable for public funds under their administration, while in the performance of their functions, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously release and disburse, or authorize or allow the release and disbursement of the amount of SEVEN MILLION PESOS (Php7,000,000.00), Philippine Currency, as the contingency fund of the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, contrary to the purpose for which said public funds have been appropriated, considering that said amount of Php7,000,000.00, was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, to the damage and prejudice of public service.

CONTRARY TO LAW.

(9) SB-14-CRM-0010 [For: Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

That on September 26, 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused **P/DIR. ELISEO DECENA DELA PAZ**, a high-ranking public officer with Salary Grade 29, being then the Director, Directorate for Comptrollership, **P/SUPT. SAMUEL PRECIA RODRIGUEZ**, then Special Disbursing Officer, Finance Service, **P/CHIEF SUPT. ORLANDO LEGASPI PESTAÑO**, then Director for Finance Service and **P/SENIOR**



SUPT. TOMAS GUNTANG RENTOY III, then Director, Budget Division, Directorate for Comptrollership, all with the Philippine National Police (PNP), and as such, by reason of their positions and duties, are accountable for public funds under their administration, while in the performance of their functions, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously release and disburse, or authorize or allow the release and disbursement of the amount of EIGHT HUNDRED SEVEN THOUSAND FOUR HUNDRED FORTY PESOS (Php807,440.00), Philippine Currency, as the contingency fund of the PNP delegation to the 77th INTERPOL General Assembly to be held in St. Petersburg, Russia, from October 7 to 10, 2008, contrary to the purpose for which said public funds have been appropriated, considering that said amount of Php807,440.00, was appropriated as part of the confidential and intelligence funds of the PNP under Section XIV (F) of Republic Act No. 9498, otherwise known as the General Appropriations Act of 2008, to the damage and prejudice of public service.

CONTRARY TO LAW.

The prosecution filed its *Formal Offer of Evidence*⁸ on 07 December 2018, and thereafter rested its case. In a *Resolution*⁹ dated 24 January 2019, the Court admitted the prosecution's documentary exhibits "A" to "A-29", "C" to "R", "Y" to "Z", "AA" to "II", "KK", "MM" to "ZZ", "AAA" to "ZZZ", "A⁴" to "Q⁴", "S⁴" to "Z⁴", "A⁵⁻²" to "D⁵", "F⁵" to "L⁵", "N⁵", "Q⁵", "R⁵⁻⁶" to "R⁵⁻¹⁴", "R⁵⁻¹⁷" and "R⁵⁻¹⁸", and "T⁵" to "T⁵⁻¹⁷⁹", inclusive, and including all sub markings therein as well as sub-marked documents."

EVIDENCE FOR THE PROSECUTION

The testimonies of Felicidad S. Sarabusing, Rosalin Mangui, P/Chief Insp. Catherine Dalmacio, Kenneth Neil Piloton, and Almario Pamintuan Aguilar were dispensed with in view of the stipulations entered into by the parties on the following documentary evidence of the prosecution: (1) PNP Manual (Exhibit "T⁵"), (2) Job Descriptions of accused Rodriguez and Pestaño (Exhibits "MM" and "NN"), (3) COA Annual Audit Report for 2009 and 2010 (Exhibits "R⁵" to "R¹⁶", and "B" and series), and (4) Travel Authority (Exhibits "CCC" and "YY").

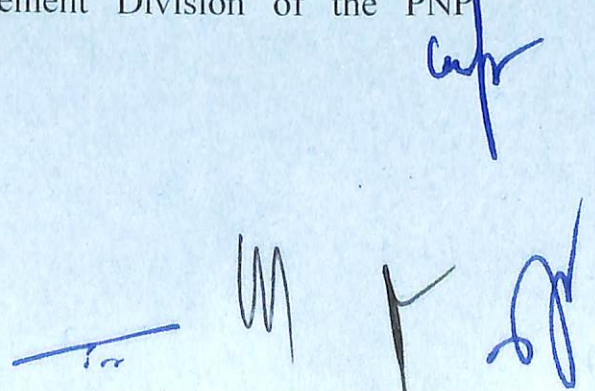
P/Chief Insp. Christopher V. Muego

*P/Chief Insp. Christopher V. Muego ("Muego")*¹⁰ is the Chief of the Service Record Section, Records Management Division of the PNP

⁸ Records, Vol. 8, pp. 272-331.

⁹ Records, Vol. 9, pp. 167-168.

¹⁰ TSN dated 15 February 2018.



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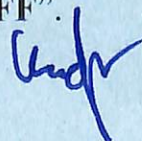
Directorate for Personnel and Records Management. In his *Judicial Affidavit*,¹¹ he claimed that he was the Chief of Personnel Accounting and Information System (“PAIS”) from 15 July 2015 to 10 May 2017. As Chief of PAIS, he testified that he has the responsibility to secure and to ensure the integrity and accuracy of all information in the central PAIS computer database of the PNP. He also mentioned that he issues and signs the Personal Data Sheet (“PDS”) of the PNP Personnel.

Witness Muego recalled having received a subpoena from the Office of the Ombudsman requiring him to submit certified true copies of the PDS, Service Records, and General Orders pertaining to the promotions of named Police Commissioned Officers (“PCOs”). As regards the Service Records and General Orders, he testified that he requested the Chief of Storage Section PCI Eduardo C. Alcantara, Jr. and the Current and Non-Current Section to submit the said documents. Witness Muego identified the PDS, Service Records, and General Orders marked as Exhibits “C” to “C-3”, “D-2”, “E” to “E-4”, “G” to “G-3”, “H” to “H-1”, “J” to “J-4”, “M” to “M-4”, “P” to “P-4”, “Q” to “Q-1”, “S” to “S-4”, “V” to “V-6”, “W” to “W-1”, “X” to “X-5”, “Y” to “Y-1”, “AA” to “AA-3”, “DD” to “DD-4”.

P/Chief Insp. Richard Villanueva

P/Chief Insp. Richard Villanueva (“Villanueva”)¹² is the Chief of the Storage Section, Records Management Division of the Directorate for Personnel and Records Management of the PNP. In his *Judicial Affidavit*,¹³ he stated that his duties include (1) the issuance of authenticated copies of Personnel Records and other documents sent to the PNP for verification; (2) the safekeeping of General Orders and 201 files of PNP personnel; and (3) the maintenance of a database of the scanned copy of the original service records of inactive PNP personnel.

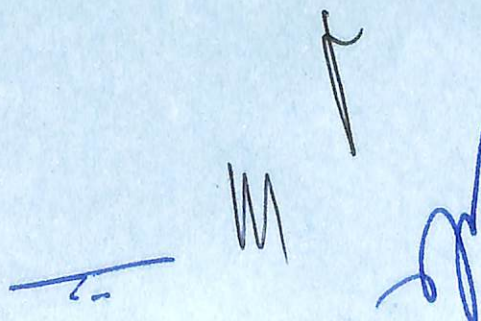
Witness Villanueva recalled having received a subpoena from the Office of the Ombudsman requiring him to submit certified true copies of Service Records of Senior Police Officers and General Orders. He identified the Service Records and General Orders marked as Exhibits “D” to “D-1”, “F”, “F-1”, “I”, “K” to “K-1”, “L”, “N”, “O”, “R”, “T” to “T-1”, “U”, “Z”, “BB” to “BB-1”, “CC”, “EE”, and “FF”.



¹¹ Records, Vol. 5, pp. 360-434.

¹² TSN dated 26 February 2018.

¹³ Records, Vol. 5, pp. 435-464.



SPO2 Alejandro Toledo

SPO2 Alejandro Toledo (“Toledo”)¹⁴ is an Administrative Police Non-Commissioned Officer (“PNCO”) of the PNP. In his *Judicial Affidavit*,¹⁵ he stated that his office maintains and updates the personnel file of all employees, and prepares the memorandum/compliance from the Directorate for Personnel Records Management, among others. He likewise recalled having received a subpoena from the Office of the Ombudsman directing him to submit the Job Description of accused Dela Paz and Rentoy. He identified the Job Description which was marked as Exhibit “OO-1”.

Police Superintendent Rodolfo Santiago II

Police Superintendent Rodolfo Santiago II (“Santiago”)¹⁶ is the Chief of the Administrative Section of the Directorate for Human Resource and Doctrine Development of the PNP. In his *Judicial Affidavit*,¹⁷ he stated that he assists the Director of their office, and supervises the preparation of all documents for the approval of the latter. He recalled that he was directed by his office to comply with a subpoena because his superior officer was unavailable due to an official business. He identified the Memorandum dated 28 October 2016 pertaining to the Job Description of accused Doria (Exhibit “KK” and “KK-1”).

Atty. Ariel Ronquillo

Atty. Ariel Ronquillo (“Ronquillo”)¹⁸ is an Assistant Commissioner for Legal Concerns and concurrent Head of the Office for Legal Affairs at the Civil Service Commission (“CSC”). One of his main functions is to render legal opinions for the CSC.

In his *Judicial Affidavit*,¹⁹ witness Ronquillo stated that he received a query from the Office of the Ombudsman regarding the definition of “official commitment of the agency” as an exemption to the travel ban of retiring officials of the government, particularly the PNP. Witness Ronquillo testified that he issued CSC Opinion No. 6, Series of 2008, dated 14 January 2008 citing the different laws on foreign travels (Exhibits “V4” to “V4-1”) such as (1) Section 1 (a)(1) of Administrative Order No. 103; (2) Section 3 of

¹⁴ TSN dated 12 March 2018.

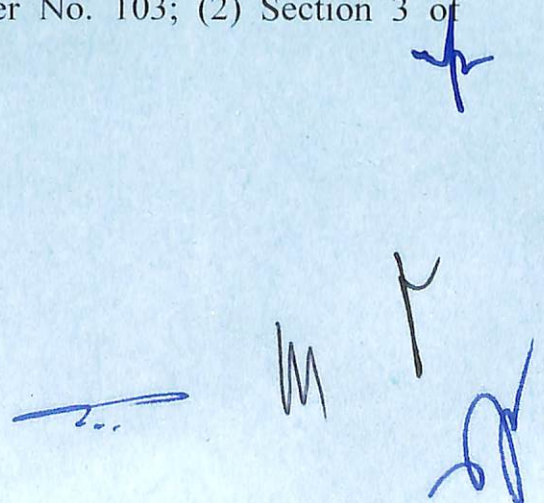
¹⁵ Records, Vol. 6, pp. 136-146.

¹⁶ TSN dated 26 March 2018.

¹⁷ Records, Vol. 6, pp. 198-208.

¹⁸ TSN dated 16 April 2018.

¹⁹ Records, Vol. 7, pp. 81-100.



Executive Order No. 459; (3) PNP Circular No. 2002-017 (Exhibit “V⁴”-2” and series); and (4) NPC Circular No. 95-025 (Exhibit “N⁵”).

On cross-examination, witness Ronquillo affirmed that his opinion is not tantamount to a ruling of the CSC, and that the same is synonymous only to an advice, which is not binding against a person in whose favor the opinion was issued. Witness Ronquillo affirmed that in the laws and regulations that he mentioned in his opinion, the term “official commitment of the agency” cannot be found. However, he testified that the GAA consistently contains provisions on restrictions to travel.

Jaime V. Serrano

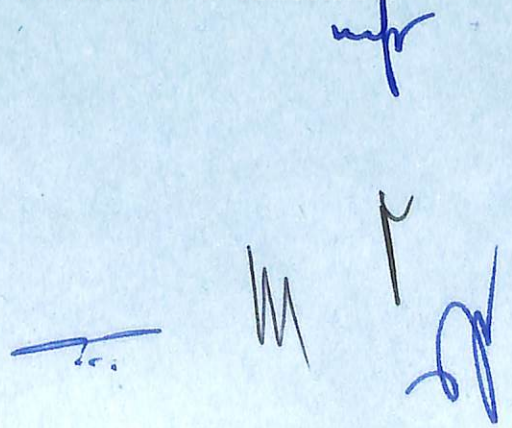
Jaime V. Serrano (“Serrano”)²⁰ was a former State Auditor V and Supervising Auditor in the COA PNP. In his *Judicial Affidavit*,²¹ he testified that his primary duties and responsibilities include reviewing and signing of Audit Observation Memorandum (“AOM”), Notice of Disallowance, and Notice of Suspension. He recalled that he conducted an audit on the accused PNP officials’ travel to Russia to attend the 77th INTERPOL General Assembly held in St. Petersburg, Russia, from October 7 to 10, 2008 (“INTERPOL Assembly”). He claimed that he reviewed and verified the travel expense account and supporting documents such as the Journal Entry Voucher and Summary of Information of PNP Officers. He found that most of the accused PNP delegates were due to retire within one (1) year after their travel, which is allegedly a violation of Section 16-C of the General Provisions of the 2008 General Appropriations Act (“GAA”). Hence, they issued AOM No. 2009-04-101 (Exhibits “R⁵-6 to R⁵-14”).

He also identified the Journal Entry Voucher No. 08-10-499 dated 31 October 2008 (Exhibit “R⁵-17”) and Journal Entry Voucher No. 08-12-5645 dated 12 December 2008 (Exhibit “R⁵-18”).

On cross-examination, witness Serrano confirmed that he did not personally conduct the preparation of the AOM but made sure that the contents of the same are correct. He affirmed that Journal Entry Voucher No. 08-10-499 pertaining to the travel expenses of the accused PNP officials in the amount of PhP2,192,566.00 was cancelled by Journal Entry Voucher No. 08-12-5645, which meant that the amount was never released. He testified that there was no damage to the government as far as this amount is concerned.

²⁰ TSN dated 17 April 2018.

²¹ Records, Vol. 7, pp. 153-177.



Witness Serrano also affirmed that he did not inquire if the accused PNP officials secured authority to travel from the Department of Interior and Local Government (“DILG”), National Police Commission (“NAPOLCOM”), and the Department of Foreign Affairs (“DFA”). He stated that there was no communication between him and the accused PNP officials when he was preparing the AOM. He also testified that in the AOM, he was referring to the whole organization or management of PNP when he recommended that “management should adhere strictly to the general provisions of the GAA regarding expenditures to defray foreign travel expense of any official” and that “management should strengthen their control procedure on the authorization and approval of travel expenses.”

On re-direct examination, witness Serrano stated that they only audit regular funds, and that it is the COA Central Office who audits intelligence funds.

P/Supt. Joy E. Tomboc

*P/Supt. Joy E. Tomboc (“Tomboc”)*²² is an Administrative Officer at the Office of the PNP Chief. In her *Judicial Affidavit*,²³ she stated that her duties include (1) receiving communication from the different offices of the PNP and other government agencies, (2) referring communications to concerned units, and (3) administration of office personnel.

Witness Tomboc mentioned that she received a subpoena from the Office of the Ombudsman requiring her to submit certain documents. She identified the (1) Letter dated 28 August 2008 for DILG Secretary Rolando V. Puno and signed by PDG Chief Avelino I. Razon (Exhibit “VV” to “VV-1”); (2) Letter dated 28 August 2008 for Undersecretary Rolando C. Garcia, Executive Director of the Philippine Center on Transnational Crime and signed by PDG Avelino I. Razon (Exhibit “WW” to “WW-1”); and (3) Letter dated 16 September 2008 for DILG Secretary Rolando V. Puno signed by PDG Avelino I. Razon (Exhibit “BBB”).

PO2 John Henry Alejandro

*PO2 John Henry Alejandro (“Alejandro”)*²⁴ is an Action PNCO at the Storage Section, Records Management Division of the PNP. In his *Judicial Affidavit*,²⁵ he stated that his duties include the verification of requests for

²² TSN dated 23 and 24 April 2018.

²³ Records, Vol. 7, pp. 215 to 226.

²⁴ TSN dated 24 April 2018.

²⁵ Records, Vol. 7, pp. 227 to 235.



Special Orders, General Orders, Letter Orders in their database and archives, and other duties as instructed by his superior officer. He testified that he received a subpoena requiring him to appear at a case conference and to submit documents. He identified the (1) Letter Order No. 1249 dated 09 September 2008 (Exhibit "ZZ"), and (2) Letter Order No. 1327 dated 03 October 2008 (Exhibit "DDD"), both with the subject "Travel Abroad" signed by Edgardo E. Acuña. He stated that he transmitted the documents to the Administrative Section for the proper submission of the documents.

Atty. Ronald Allan Ramos

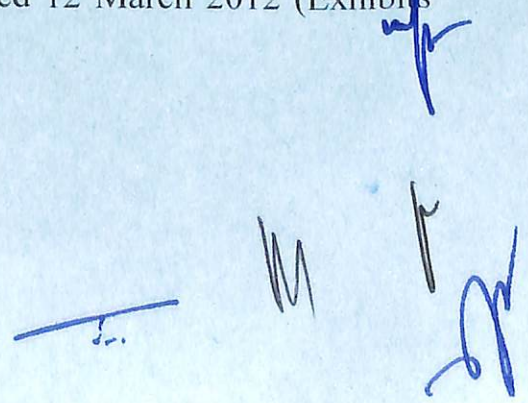
Atty. Ronald Allan Ramos ("Atty. Ramos")²⁶ is a Graft Investigation and Prosecution Officer III at the Field Investigation Office ("FIO") of the Office of the Ombudsman. In his *Judicial Affidavit*,²⁷ he stated that his primary duty is to do fact-finding investigation, submit reports relative thereto, and file the necessary complaint, if warranted. He testified that he conducted a fact-finding investigation about the irregularities of the travel of PNP delegates to the INTERPOL Assembly. He stated that his team gathered relevant documents from a previous investigation, and that they secured additional documents from other government agencies. He added that the previous team who investigated the case found sufficient basis for the filing of administrative and criminal complaints. He alleged that sometime in January 2012, FIO-II Assistant Ombudsman Joselito Fangon directed them to conduct a re-evaluation of the case and to prepare the necessary Memorandum-Report and Supplemental Complaint.

Witness Atty. Ramos identified the (1) Personal Data Sheets, General Orders, and Service Records of the accused PNP officials (Exhibits "C" to "FF"); (2) Letters, Memoranda, Certifications, and Itinerary (Exhibits "QQ" to "EEE"); (3) Acknowledgment Receipts (Exhibits "FFF" to "NNN" and "P⁴" to "Q⁴"); (4) Disbursement Vouchers (Exhibits "OOO" to "VVV"); (5) Memoranda from the PNP (Exhibits "WWW" to "XXX"); (6) Landbank checks (Exhibits "YYY" to "F⁴") and their second versions (Exhibits "G⁴" to "N⁴"); and (6) other documents marked for the prosecution (Exhibits "O⁴" to "M⁵").

Witness Atty. Ramos alleged that based on their evaluation and assessment of the abovementioned documents, they found several violations of laws committed by the accused PNP officials. They then submitted an Investigation Report and filed a Complaint dated 12 March 2012 (Exhibits "A" to "A-30").

²⁶ TSN dated 08 May and 11 July 2018.

²⁷ Records, Vol. 7, pp. 262 to 286.



On cross-examination, witness Atty. Ramos testified that they included additional PNP officers subject of the second investigation, namely, Ronaldo V. Puno, Evita Caringal, Avelino Razon, and Cynthia Versoza. He also confirmed that the first field investigation team filed a complaint before the Office of the Ombudsman but the same was dismissed with respect to all of the accused except accused Dela Paz. He reiterated that a memorandum was issued directing them to conduct a re-evaluation of the case and to submit a memorandum report. He claimed that the charges filed by the previous investigation are different from the complaint they filed. He also affirmed that he has no actual participation in the collection of the documents related to the investigation.

Witness Atty. Ramos also testified that his field investigation team never made a finding that the accused PNP officials volunteered themselves to be participants in the INTERPOL Assembly. He also affirmed that they found the PNP officials to be not qualified to travel solely by reason of their retirement within one (1) year from the date of travel. He confirmed that he did not consult the rules and regulations issued by the Department of Budget and Management (“DBM”) in coordination with the Commission on Audit (“COA”) pertaining to Section 16-C of the 2008 GAA.

As regards accused Rentoy, witness Atty. Ramos admitted that accused Rentoy was not mentioned in his recommendation as one of the accused PNP officials involved in the alleged illegal transactions.

On re-direct examination, witness Atty. Ramos testified that it was accused Ricardo who recommended the names of the accused PNP officials as delegates to the INTERPOL Assembly, and the budget of Php2,314,096.00 as travel expense to be used in Russia. Witness Atty. Ramos claimed that accused Ricardo was in charge of the processing of the said foreign travel.

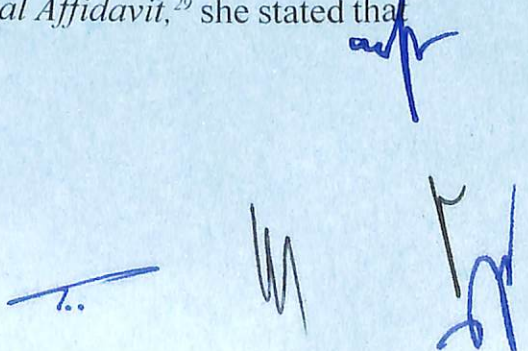
On re-cross examination, witness Atty. Ramos stated that although accused Ricardo’s recommendation has great weight on the decision of the heads of offices, he would not be the final person to decide the names of the actual delegates or the budget for the travel expense.

Dir. Nilda Plaras

Dir. Nilda Plaras (“*Dir. Plaras*”) ²⁸ is a Director IV at the Office of the Commission Secretariat of the COA. In her *Judicial Affidavit*, ²⁹ she stated that

²⁸ TSN dated 24 July 2018.

²⁹ Records, Vol. 8, pp. 105 to 131.



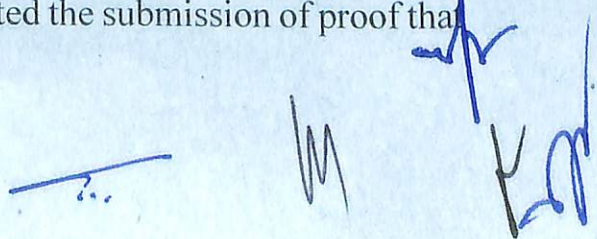
in 2009, she was Director IV, Chief Executive Staff of the COA Chairperson and Head of the Intelligence and Confidential Fund Audit Unit (“ICFAU”) at the COA Central Office. She alleged that the function of the ICFAU is to make post audit liquidation reports/vouchers for cash advances charged against Confidential and Intelligence Funds (“CIF”) submitted by different government agencies in accordance with COA Circular Nos. 2003-002 and 2003-003 dated 30 July 2003, and COA Circular No. 92-385 dated 01 October 1992. Her primary duties as Head of the ICFAU is to review and sign/approve the credit advices, AOMs, letters, notices of suspensions and notices of disallowances prepared by the ICFAU staff, and to supervise activities/performance of ICFAU staff.

Witness Dir. Plaras defined the CIF pursuant to COA Circular No. 88-293 as “funds allotted for national defense, national security, peace and order, internal security or counter insurgency, usually involving covert or classified operations, psychological warfare and surveillance operation and other specified intelligence and confidential operations of the national government as well as government-owned or controlled corporations and local government units.”

Witness Dir. Plaras recalled that she conducted an audit of the CIF of the PNP in 2009. She allegedly reviewed and verified the liquidation reports submitted to ICFAU on 26 January 2009 in the total amount of PhP51,726,679.67 covering various cash advances granted in October 2008. She likewise reviewed supporting documents, such as disbursement vouchers, checks, certification of the Agency Head, Special Allotment Release Order (“SARO”); and Allotment and Obligation Slips (“ALOBS”).

After the conduct of the audit, witness Dir. Plaras stated that she issued Credit Advice No. 2009-05-0214-N dated 11 May 2009 for the amount of PhP41,726,679.67. She stated that the difference of PhP10,000,000.00 from the total cash advances was excluded due to the highly controversial Euro Generals case where CIF cash advances were availed of to be utilized for travelling/contingency expenses by the delegates of the INTERPOL Assembly. She claimed that based on the New Government Accounting System (NGAS) and the COA Accounting Rules and Regulations, the funds used for the subject travel to Russia by the accused PNP officials should have been charged against the regular funds and not the CIF. With regard to this cash advance of PhP10,000,000.00, the ICFAU issued AOM No. 2009-06 dated 02 June 2009 (Exhibits “Q⁵-2” to “Q⁵-4”).

According to witness Dir. Plaras, AOM No. 2009-06 provides that unless the use of the PhP10,000,000.00 is fully justified, the COA will be constrained to disallow the same. They requested the submission of proof that



the amount was utilized in accordance with existing rules and regulations governing the use of CIF. She also testified that in one of the visits of accused Rodriguez in their office, the latter verbally confirmed to the two members of the ICFAU that the PhP10,000,000.00 came from the CIF of the PNP.

Moreover, witness Dir. Plaras stated that the PNP Management responded to AOM No. 2009-06 in a letter dated 25 June 2009 by P/Supt. Ulysses C. Caton, Special Disbursing Officer (Exhibit "Q⁵-13"), who submitted an authenticated photocopy of Official Receipt No. 0712031 dated 25 June 2009 in the amount of PhP10,000,000.00 (Exhibit "Q⁵-12") representing the balance of cash advance from the CIF used during the INTERPOL Assembly. She added that in his reply dated 13 July 2009 (Exhibits "Q⁵-5" to "Q⁵-7"), P/Supt. Ulysses C. Caton stated that the refund of PhP10,000,000.00 was booked up under JEV No. 09-06-3008 dated 30 June 2009, and deposited on 25 June 2009 to the General Fund of the National Treasury, as evidenced by the certified copy of the official receipt and the certified copy of the deposit slip (Exhibit "Q⁵-14"). She maintained that there was no justification as to utilization of the expenses incurred and that only the official receipt and the deposit slip for the refund were submitted.

On cross-examination, witness Dir. Plaras confirmed that she was not present when accused Rodriguez allegedly confirmed to two members of the ICFAU that the PhP10,000,000.00 came from the CIF, and that the said confirmation was only relayed to her. She also confirmed that AOM No. 2009-06 has been set aside, and that no Notice of Disallowance was issued because of the refund of the PhP10,000,000.00 to the Bureau of Treasury. She confirmed that as far as the COA is concerned, the refund only pertains to the civil liability of the accused.

On re-direct examination, witness Dir. Plaras reiterated that the accused refunded the money, and that there was no justification that the same was disbursed for the purpose of utilizing the CIF. Moreover, she testified that the refund of the PhP10,000,000.00 went to the Bureau of Treasury and will never go back to the account of the PNP to be used for CIF activities.

On re-cross examination, witness Dir. Plaras affirmed that the AOM is akin to a notice to explain. She also repeated that the AOM was set aside and that they did not issue a Notice of Disallowance because the money was returned. According to her, the legal effect of setting aside the AOM is that there was no more observation considering there was no expense charged.

Dir. Mario G. Lipana

Dir. Mario G. Lipana (“Dir. Lipana”)³⁰ is a Director IV at the Intelligence and Confidential Fund Audit Office (“ICFAO”) under the office of the COA Chairman. In his *Judicial Affidavit*,³¹ he stated that the function of the ICFAO is to audit the CIF of the National, Corporate, or Local Government. His duties as Head of the ICFAO are to supervise, review, and approve all the audit actions of his subordinates in relation to the liquidation of the CIF of the government.

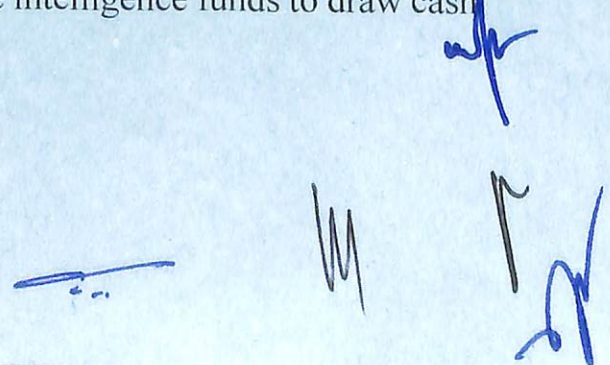
Witness Dir. Lipana defined confidential fund as a “fund specifically implemented by a particular Department and its purpose is related to the mandate of the particular Office or Department”, while intelligence fund is a “fund that is being used by National Office concerned with national security.” For the proper utilization of the CIF, he enumerated certain guidelines such as (1) Presidential Decree No. 1445; (2) COA Circular No. 97-2002 dated 10 February 1997 (Exhibit “Q⁵-17”); (3) COA Circular No. 2003-002 dated 30 July 2003 (Exhibit “Q⁵-18”); (4) Joint Circular No. 2015-01 dated 08 January 2015 (Exhibit “Q⁵-19”); and (5) the GAA, among others.

According to witness Dir. Lipana, the intelligence fund is allocated through the GAA. He stated that all national government agencies concerned with national security, such as the PNP, are entitled to intelligence funds. The intelligence operatives in the said agencies receive the intelligence funds. He also defined intelligence operations as those “operations related to intelligence information gathering activities of intelligence practitioners with direct impact to national security.” Based on the COA Circulars, he claimed that intelligence funds shall only be used for the following expense: (1) intelligence and counter-intelligence activities that have direct impact to national security; and (2) special projects and case operation plans as approved by the Head of Agency involving covert or semi-covert psychological, internal security operation, and peace and order activities, as well as programs/projects/campaigns against lawless elements involving intelligence activities.

Witness Dir. Lipana also explained how intelligence funds are released to the entitled agencies. First, the CIF is released to the Director for Intelligence upon receipt of the SARO and the Notice of Cash Allocation (“NCA”), and upon approval of the President for the utilization of the intelligence fund. Second, the Director for Intelligence will authorize the Special Disbursing Officer assigned to handle intelligence funds to draw cash

³⁰ TSN dated 05 November 2018.

³¹ Records, Vol. 8, pp. 186 to 195.



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advance to be utilized for intelligence operations. The SARO, NCA, the authority from the Office of the President, the approval of the intelligence project by the Head of the Agency, and the Cash Advance Disbursement Voucher should be submitted to support the release of the CIF.

As regards the PNP, he stated that before they can utilize the approved budget given by Congress, they prepare the case operation plan approved by the Head of the Agency and submitted to the Office of the President seeking approval for implementation. After the approval of the case operation plan, they will prepare the cash advance specifically to be used for the implementation of the same. The disbursement of the intelligence fund by the PNP is allegedly made through cash advance for intelligence operation and that in no case said cash advance can be used for payment or reimbursement of previous expenses. He alleged that the PNP liquidates its intelligence fund by preparing an accomplishment report vis-à-vis the case operation plan detailing the accomplishment and the corresponding expenditure for the specific case operation plan, and submit the same to ICFAO attaching all the documentary requirements enumerated in the COA Circulars.

He also testified that the difference between the liquidation of intelligence fund compared to that of the regular fund is that the liquidation of CIF is submitted to the Office of the COA Chairman through ICFAO, while for the regular funds, the liquidation of regular fund is submitted to the resident auditor of the agency. The ICFAO will then audit the transaction involving CIF after the final consummation of the transaction and after the submission of the liquidation documents to them.

As regards the utilization of the intelligence fund of the PNP, witness Dir. Lipana also explained the procedure of the ICFAO in auditing the CIF. First, ICFAO will check the propriety of the cash advance. Under COA Circular No. 97-002, cash advance should be given only for a specific purpose and no additional cash advance will be released until the previous cash advance is completely liquidated. Second, the ICFAO will audit the liquidation to examine and/or verify if the funds were used in accordance with the purpose of the cash advance. Third, after examination and verification of all the documents, the auditor will now issue an Audit Action, like Credit Notice, if the transaction is in order or if there are some lacking documents or documents that are needed to be clarified, ICFAO will issue AOM. If the transaction is questionable or irregular, ICFAO will issue Notice of Suspension or Notice of Disallowance.

According to witness Dir. Lipana, if after the issuance of the Notice of Disallowance, the persons determined liable would refund the subject Intelligence Fund, the ICFAO will issue a Notice of Settlement which means

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that the person is cleared from financial accountability from that particular transaction. However, as regards criminal liability, the same is another matter to be established by the Office of the Ombudsman.

Witness Dir. Lipana recalled having received a subpoena in October 2015 requiring the submission of AOM No. 2009-06 and all supporting documents. He identified the following: (1) Letter dated 08 November 2016 signed by Dir. Lipana (Exhibit "Q⁵"); (2) Subpoena dated 25 October 2016 (Exhibit "Q⁵-1"); (3) AOM No. 2009-06 dated 02 June 2009 (Exhibits "Q⁵-2" to "Q⁵-4"); (4) Letter dated 13 July 2009 signed by Ulysses C. Caton (Exhibits "Q⁵-5" to "Q⁵-7"); (5) PNP Report on Cash Advance and Liquidation (Exhibits "Q⁵-8" to "Q⁵-11"); (6) Official Receipt No. 0712031 dated 25 June 2009 (Exhibits "Q⁵-12"); (7) Letter dated 25 June 2009 signed by Ulysses C. Caton (Exhibits "Q⁵-13"); (8) Landbank Deposit Slip dated 25 June 2009 (Exhibits "Q⁵-14"); and Credit Advice dated 11 May 2009 (Exhibits "Q⁵-15").

On cross-examination, witness Dir. Lipana confirmed that accountability pertains to those persons occupying the position who have personal knowledge in the release and utilization of the CIF. He also affirmed that the special disbursing officer cannot withdraw the cash advance from the CIF without the authorization and approval of the Director for Intelligence. With regard to the audit of the subject fund, he confirmed that he had no personal knowledge, participation, or involvement in the same since the audit was already completed by the time he assumed office as head of the ICFAO. Lastly, he testified that an accountable officer will be absolved from liability if he notifies his superior of the illegality of the disbursement and the latter insists on the approval pursuant to Section 106 of Presidential Decree No. 1445.

Documentary Evidence

On 24 January 2019,³² the Court resolved to admit the following prosecution's documentary evidence, to *wit*:

EXHIBITS	DESCRIPTION
A to A-29	Complaint dated 12 March 2012 by the Field Investigation Office (FIO) of the Office of the Ombudsman
C to C-3	PNP Personal Data Sheet of accused Dela Paz
D to D-1	Service Record of accused Dela Paz as of 21 July 2008

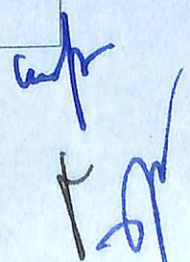
³² *Ibid*, Vol. 8, pp. 167-168.

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D-2	Certification dated 01 August 2016 issued by P/Chief Inspector Muego
E to E-4	PNP Personal Data Sheet of accused Carta
F to F-1	Service Record of accused Carta as of 22 October 2008
G to G-3	PNP Personal Data Sheet of accused Rafanan
H to H-1	Service Record of accused Rafanan as of 22 October 2008
I	General Order No. 291 dated 29 February 2008, Re: Promotion of accused Rafanan to the rank of Police Deputy Director General
J to J-4	PNP Personal Data Sheet of accused Ricardo
K to K-1	Service Record of accused Ricardo as of 22 October 2008
L	General Order No. 98 dated 17 January 2008, Re: Promotion of accused Ricardo to the rank of Police Director
M to M-4	PNP Personal Data Sheet of accused Doria
N	Service Record of accused Doria as of 22 October 2008
O	General Order No. 1538 dated 17 December 2007, Re: Promotion of accused Carta to the rank of Police Deputy Director General and accused Doria to the rank of Police Director
P to P-4	PNP Personal Data Sheet of accused Caringal
Q to Q-1	Service Record of accused Caringal as of 22 October 2008
R	General Order No. 1491 dated 14 December 2007, Re: Promotion of accused Caringal to the rank of Police Director
Y to Y-1	Service Record of accused Rodriguez as of 29 October 2008
Z	General Order No. 2486 dated 23 September 2002, Re: Promotion of P/Chief Inspectors to the next higher rank of Police Superintendent

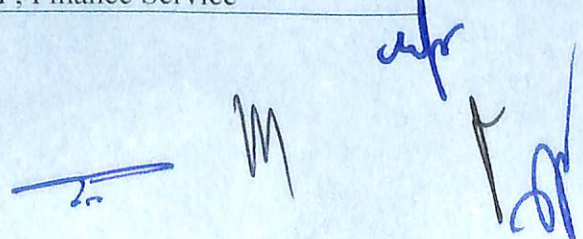




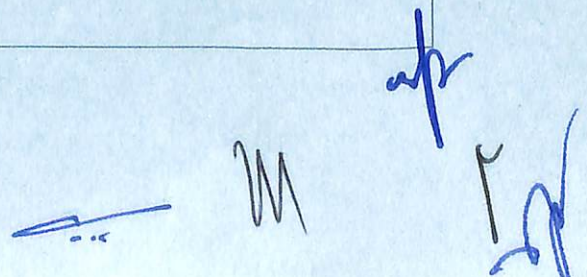


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AA to AA-3	PNP Personal Data Sheet of accused Pestaño
BB	Service Record of accused Pestaño as of 29 October 2008
CC	General Order No. 276 dated 13 February 2007, Re: Promotion of P/Senior Superintendent to the rank of Police Chief Superintendent
DD to DD-5	PNP Personal Data Sheet of accused Rentoy III
EE	Service Record of accused Rentoy III as of 29 October 2008
FF	General Order No. 79 dated 12 January 2005, Re: Promotion of Police Superintendent to the rank of Police Senior Superintendent
GG to GG-2	Job Description of accused Dela Paz and accused Rentoy III in their capacity as Director, Directorate for Comptrollership and Chief, Budget Division of the Directorate for Comptrollership, respectively
HH to HH-6	Job Description of accused Carta
HH-7 to HH-13	Letter dated 27 October 2016 from Francisco A. Uyami, Jr. pertaining to the job description of accused Carta
HH-16	Police Manual (Volume I)
II to II-7	Job Description of accused Rafanan Resolution No. 93-023 dated 27 May 1993 entitled "Adopting the Police Manual for PNP Members"
II-8 to II-13	Letter dated 27 October 2016 from Police Director Benjamin B. Magalong pertaining to the Job Description of accused Rafanan
KK to KK-5	Memorandum dated 28 October 2016, Re: Job Description of accused Doria
KK-6	Directorate for Human Resource and Doctrine Development, Uniformed Personnel Job Description
MM	Job Description of accused Pestaño as Director for Finance Service
NN	Job Description of accused Rodriguez as Special Disbursing Officer, PNP, Finance Service



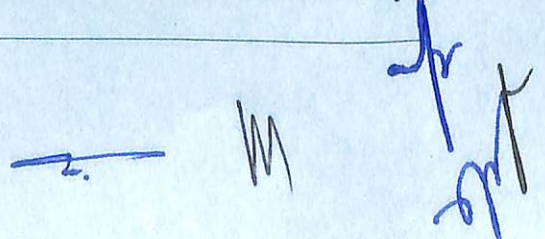
OO to OO-5	Memorandum dated 25 October 2016, Re: Job Description of accused Rentoy III
PP to PP-4	Letter Invitation dated 14 May 2008 from Police Senior Superintendent Joel Ma. T. Alvarez, Director for Operations (PCTC/INTERPOL Manila)
QQ to QQ-1	Letter dated 22 September 2008 addressed to Mr. Ronald K. Noble, Secretary General, International Criminal Police Organization (“ INTERPOL ”), Lyon, France and signed by Acting Secretary of Foreign Affairs Franklin M. Ebdalin
RR	Certification dated 29 October 2008 issued by accused Ricardo, Director for Plans (DPL) that the PNP cannot submit the required copies of checks relative to the foreign travel of the PNP contingent on the 77 th INTERPOL General Assembly
SS	Memorandum for the Chief, PNP dated 06 August 2008 signed by accused Ricardo, Re: 77 th INTERPOL General Assembly
TT	Breakdown of Expenses for the 77 th INTERPOL General Assembly, St. Petersburg, Russia, October 06 to 11, 2008, prepared by P/Supt. Elmer R. Pelobello, Chief, Budget and Fiscal Section
UU to UU-1	Memorandum for the Chief, PNP dated 15 August 2008 signed by accused Ricardo, Re: 77 th INTERPOL General Assembly, Recommending PNP Officers to attend the said Assembly
VV to VV-1	Letter dated 28 August 2008 addressed to the Secretary of Interior and Local Government Ronaldo V. Puno requesting the issuance of Foreign Travel Authority (FTA) for the listed PNP personnel to attend the 77 th INTERPOL General Assembly
WW to WW-1	Letter dated 28 August 2008 addressed to Undersecretary Rolando C. Garcia, and signed by Police Director General Avelino I. Razon, Jr. informing the attendance of the listed PNP personnel attending the Letter dated 28 August 2008 addressed to the Secretary of the Department of Interior and Local Government (“ DILG ”) Ronaldo V. Puno requesting the issuance of Foreign Travel Authority (FTA) for the listed PNP personnel to attend the 77 th INTERPOL General Assembly



XX	Letter dated 02 September 2008 addressed to PNP Chief Avelino I. Razon, Jr. signed by Chairman Ronaldo V. Puno
YY	Letter dated 04 September 2008 addressed to Hon. Alberto G. Romulo, Secretary of the Department of Foreign Affairs (“DFA”) signed by NAPOLCOM Chairman Ronaldo V. Puno
ZZ	Letter Order No. 1249, Re: Travel Abroad, signed by P/Dir. Edgardo E. Acuña, Director for Personnel and Records Management
AAA to AAA-1	Memorandum dated 02 September 2008 for the PNP Chief, Re: 77 th INTERPOL General Assembly, Recommending accused Caringal to join the PNP delegation
BBB	Letter dated 16 September 2008 addressed to the DILG Secretary signed by Police Director General Avelino I. Razon, Jr.
CCC	Letter dated 02 October 2008 addressed to DFA Secretary Alberto G. Romulo, signed by NAPOLCOM Chairman Ronaldo V. Puno
DDD	Letter Order No. 1327 dated 03 October 2008, Re: Cancellation/Travel Abroad signed by P/Dir. Edgardo E. Acuña, Director for Personnel and Records Management
EEE to EEE-1	Itinerary dated 10 September 2008 for Carta, Caringal, Rafanan, Alarcio, Dela Paz, Doria, Ricardo and Pelobello with Centerpoint International Travel and Tours, Inc.
FFF	Acknowledgement Receipt dated 26 September 2008 signed by P/Supt. Elmer Pelobello in the amount of PhP2,192,560.00
GGG	Acknowledgement Receipt dated 26 September 2008 signed by accused Carta in the amount of PhP274,070.00
HHH	Acknowledgement Receipt dated 26 September 2008 signed by accused Rafanan in the amount of PhP274,070.00
III	Acknowledgement Receipt dated 26 September 2008 signed by accused Doria in the amount of PhP274,070.00

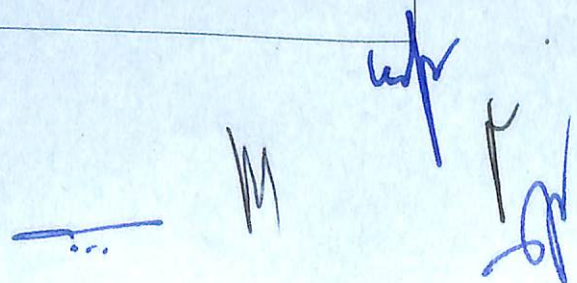
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JJJ	Acknowledgement Receipt dated 26 September 2008 signed by accused Ricardo in the amount of PhP274,070.00
KKK	Acknowledgement Receipt dated 26 September 2008 signed by P/Dir. Silverio D. Alarcio, Jr. in the amount of PhP274,070.00
LLL	Acknowledgement Receipt dated 26 September 2008 signed by accused Dela Paz in the amount of PhP274,070.00
MMM	Acknowledgement Receipt dated 26 September 2008 signed by accused Caringal in the amount of PhP274,070.00
NNN	Acknowledgement Receipt dated 26 September 2008 signed by P/Supt. Elmer R. Pelobello in the amount of PhP274,070.00
OOO	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Carta; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
OOO-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Carta; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
OOO-2	Letter dated 11 November 2008 signed by accused Ricardo addressed to the Office of the Ombudsman
OOO-3	Letter dated 07 November 2008 signed by P/Csupt. Romeo C. Hilomen addressed to the Office of the Ombudsman
PPP	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Rafanan; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
PPP-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Rafanan; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
QQQ	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Doria; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo



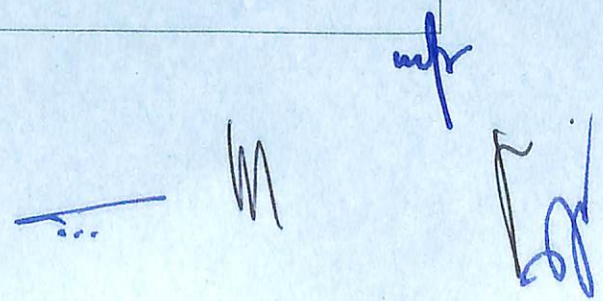
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QQQ-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Doria; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
RRR	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Ricardo; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
RRR-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Ricardo; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
SSS	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Silverio D. Alarcio, Jr.; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
SSS-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Silverio D. Alarcio, Jr.; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
TTT	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Dela Paz; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
TTT-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Dela Paz; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
UUU	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Caringal; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo
UUU-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused Caringal; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
VVV	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused P/Supt. Pelobello; Net Amount Due - PhP274,070.75; authenticated by accused Ricardo



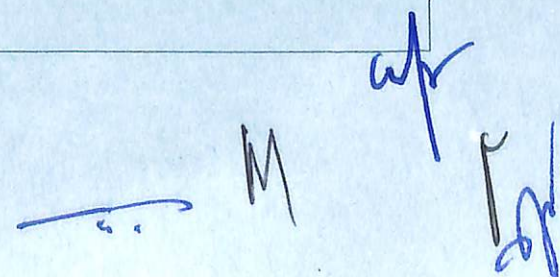
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VVV-1	Disbursement Voucher, unnumbered, undated with the following details: Name of Claimant – accused P/Supt. Pelobello; Net Amount Due - PhP274,070.75; authenticated by PCI Edgardo A. Gustilo
WWW	Memorandum for D, FS dated 16 October 2008, Re: Notice of Fund Availability (PhP2,192,566.00)
XXX	Memorandum for TCDS from D, FS dated 05 November 2008, Re: Reimbursement of Travel Expenses signed by Police Chief Supt. Orlando L. Pestaño
YYY	Landbank of the Philippines (“ Landbank ”) Check No. 461102 dated 05 November 2008 in the amount PhP274,070.75 with accused Carta as payee
ZZZ	Landbank Check No. 461103 dated 05 November 2008 in the amount PhP274,070.75 with accused Rafanan as payee
A⁴	Landbank Check No. 461104 dated 05 November 2008 in the amount PhP274,070.75 with accused Ricardo as payee
B⁴	Landbank Check No. 461105 dated 05 November 2008 in the amount PhP274,070.75 with accused Doria as payee
C⁴	Landbank Check No. 461106 dated 05 November 2008 in the amount PhP274,070.75 with Silverio D. Alarcio, Jr. as payee
D⁴	Landbank Check No. 461107 dated 05 November 2008 in the amount PhP274,070.75 with accused Dela Paz as payee
E⁴	Landbank Check No. 461108 dated 05 November 2008 in the amount PhP274,070.75 with accused Caringal as payee
F⁴	Landbank Check No. 461109 dated 05 November 2008 in the amount PhP274,070.75 with Elmer Pelobello as payee
G⁴	Landbank Check No. 461102 dated 05 November 2008 in the amount PhP274,070.75 with accused Carta as payee (with stamp mark)



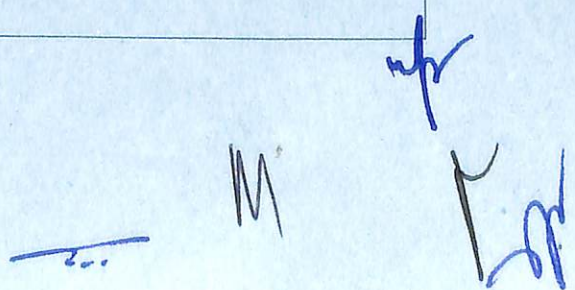
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H⁴	Landbank Check No. 461103 dated 05 November 2008 in the amount PhP274,070.75 with accused Rafanan as payee (with stamp mark)
I⁴	Landbank Check No. 461104 dated 05 November 2008 in the amount PhP274,070.75 with accused Ricardo as payee (with stamp mark)
J⁴	Landbank Check No. 461105 dated 05 November 2008 in the amount PhP274,070.75 with accused Doria as payee (with stamp mark)
K⁴	Landbank Check No. 461106 dated 05 November 2008 in the amount PhP274,070.75 with Silverio D. Alarcio, Jr. as payee (with stamp mark)
L⁴	Landbank Check No. 461107 dated 05 November 2008 in the amount PhP274,070.75 with accused Dela Paz as payee (with stamp mark)
M⁴	Landbank Check No. 461108 dated 05 November 2008 in the amount PhP274,070.75 with accused Caringal as payee (with stamp mark)
N⁴	Landbank Check No. 461109 dated 05 November 2008 in the amount PhP274,070.75 with Elmer Pelobello as payee (with stamp mark)
O⁴	Letter dated 04 December 2006 addressed to Ma. Elenita N. Manucom, Branch Manager, LBP, Camp Crame, Quezon City, signed by Police Chief Inspector Edgardo A. Gustilo
P⁴	Acknowledgment Receipt dated 03 October 2008 issued by accused Rentoy III, Re: PhP7,000,000.00 cash advance from confidential/intelligence fund, authenticated by accused Rodriguez
Q⁴	Memorandum Receipt issued by accused Dela Paz on 03 October 2008, Re: Acknowledgment Receipt of PhP6,930,000.00 cash advance from accused Rentoy III as contingency fund for the travel of accused Carta and seven (7) other delegates for the 77 th INTERPOL General Assembly
S⁴	Memorandum for accused Dela Paz from Disbursing Officer, Intelligence Confidential Funds dated 29 September 2008, Re: Notification signed by accused Rodriguez



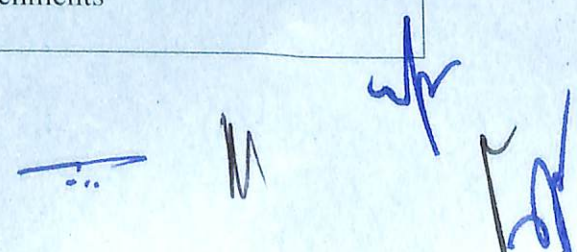
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T⁴ to T⁴-1	Letter dated 19 September 2008 addressed to DFA Secretary Alberto G. Romulo, Re: Complete List of Philippine Delegation to the 77 th INTERPOL General Assembly
U⁴ to U⁴-2	77 th INTERPOL General Assembly Status of Registration/Hotel Reservation
V⁴ to V⁴-4 and V⁴-10 to V⁴-15	Letter dated 14 January 2008 addressed to then Acting Director Joselito P. Fangon from Director Ariel G. Ronquillo, Office for Legal Affairs
V⁴-16	Letter dated 25 November 2008 addressed to Director Aiel G. Ronquillo, OLA-CSC from Acting Director Joselito P. Fangon, FIO
V⁴-17	Letter dated 15 December 2008 addressed to Director Aiel G. Ronquillo, OLA-CSC from Acting Director Joselito P. Fangon, FIO
W⁴	Certification dated 10 October 2008 issued by accused Rentoy III, Chief Budget Division, Re: Release of the amount of PhP6,930,000.00 as cash advance for the contingency funds of accused Dela Paz and seven (7) others
X⁴	Office Order No. 24-2008 dated 01 October 2008 designating accused Rentoy III as Special Disbursing Officer for travel allowance
Y⁴	Memorandum dated 30 September 2008 for TADC from EX-O, Re: Designation of Special Disbursing Officer
Z⁴	Certification dated 03 October 2008 issued by Felisa Sakaluran
A⁵-2 to A⁵-2-b	Transcript of Stenographic Notes of the Senate Committee on Foreign Relations committee hearing on 15 November 2008, pp. 48-50
A⁵-3 to A⁵-3-b	Transcript of Stenographic Notes of the Senate Committee on Foreign Relations committee hearing on 15 November 2008, pp. 171-173
A⁵-4 to A⁵-4-c	Transcript of Stenographic Notes of the Senate Committee on Foreign Relations committee hearing on 15 November 2008, pp. 56-59



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B⁵	Certification dated 22 October 2008 issued by Atty. Reynaldo P. Avelino, Chief, Departure Operations Division, Bureau of Customs
C⁵	Memorandum dated 18 October 2008 for Atty. Carlos T. So, District Collector, Bureau of Customs, NAIA, Re: Report on the issue involving accused Dela Paz
D⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Caringal appears in the Bureau of Immigration ("BOI") Computer Database File
F⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Dela Paz appears in the BOI Computer Database File
G⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Carta appears in the BOI Computer Database File
H⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Rafanan appears in the BOI Computer Database File
I⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Ricardo appears in the BOI Computer Database File
J⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that accused Doria appears in the BOI Computer Database File
K⁵ to K⁵-1	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that Sylvério D. Alarcio, Jr. appears in the BOI Computer Database File
L⁵	Certification dated 30 October 2008 issued by Elias S. Olasiman certifying that Elmer Pelobello appears in the BOI Computer Database File
N⁵ to N⁵-2	NAPOLCOM Memorandum Circular No. 95-025
Q⁵ to Q⁵-4	Audit Observation Memorandum (AOM) No. 2009-06 dated 02 June 2009 pertaining to the misuse of confidential and intelligence fund (CIF) cash advance amounting to PhP10,000,000.00 (with attachments)
Q⁵-5 to Q⁵-16	Management Comment/s to AOM No. 2009-06 dated 02 June 2009, with attachments



Q⁵-18	COA Circular No. 2003-002 dated 30 July 2003, Audit and Liquidation of Intelligence and Confidential Funds for National and Corporate Sectors.
R⁵-6 to R⁵-14	COA AOM No. 2009-04-101 dated 28 January 2009
R⁵-17	Journal Entry Voucher No. 08-10-4999 dated 31 October 2008
R⁵-18	Journal Entry Voucher No. 08-12-5645 dated 10 December 2008
T⁵ to T⁵-179	Police Manual (Volume I)

THE FACTS AND THE CASE

On 7 to 10 October 2008, the 77th INTERPOL General Assembly (“*INTERPOL Assembly*”) was held at St. Petersburg in the Russian Federation. Several law enforcement delegates and security experts from the member countries took part in the gathering.

Twenty (20) delegates of INTERPOL-Manila participated in the assembly. The head of the Philippine delegation was Undersecretary Rolando C. Garcia of the Philippine Center for Transnational Crimes (PCTC).

In preparation for the said INTERPOL Assembly, on 6 August 2008, then PNP Director of Plans Ricardo sent a memorandum thru the Deputy Chief for Administration (“*TDCA*”) and OIC, Chief of the Directorial Staff (“*TCDS*”) to then PNP Chief Razon regarding the invitation to the INTERPOL Assembly.³³ The recommendation for funding was then pegged at Php 2,314,096.00 for travel and incidental expenses chargeable to the PNP fund, as per computation of then Chief of Budget and Fiscal Section Pelobello. The “*CNCP, TDCA, TDPL, TDIDM, TDO, TDHRDD, Chief, PIO and Aide-de-Camp*” were recommended as participants for the INTERPOL assembly.

On 15 August 2008, Ricardo sent a second memorandum “thru *TCDS, TDCO, TDCA*” with the specific names of the PNP officers recommended to join the INTERPOL assembly.

On 28 August 2008, then PNP Chief Razon sent a letter to then DILG Secretary and Chairman of the National Police Commission (NAPOLCOM) Puno requesting for the approval to travel abroad and for the issuance of

³³ Exhibit “SS”.

Foreign Travel Authority of Carta, Rafanan, Ricardo, Alarcio, Doria, Dela Paz, Pelobello, and Bartolome. It was stated in the letter that the "PCOs are qualified to travel abroad in accordance with existing rules and regulations."

On 2 September 2008, then Sec. Puno approved the subject travel and authorized the disbursement of government funds. On the same date, Ricardo sent a memorandum to the PNP Chief recommending PDIR Caringal to join the delegation.

On 4 September 2008, then Sec. Puno informed then DFA Sec. Romulo that the subject police officers were authorized to attend the INTERPOL assembly and that "PCOs are qualified to travel abroad in accordance with existing rules and regulations."

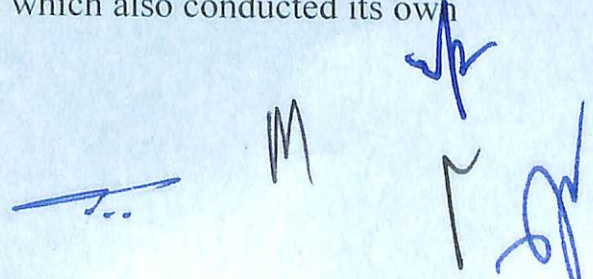
On the same date, Letter Order Number 1249 was issued by Police Director for Personnel and Records Management Acuna "by command of Police Director Razon" to Carta, Rafanan, Ricardo, Alarcio, Jr., Doria, Dela Paz, Pelobello, and PCSUPT Bartolome authorizing the subject travel and the corresponding disbursement for travel related expenses.

The total amount for the travel of the eight PNP delegates was Php 2,192,560.00 that covered the tickets, pre-departure allowance, daily allowance, and visa and insurance applications. This amount was received as a cash advance by Pelobello on 26 September 2008 from Rodriguez. Consequently, each of the eight PNP delegates received from Rodriguez the amount of Php 274,070.00 as shown by unnumbered, undated and unsigned (*with respect to the approving officer*) Disbursement Vouchers (DVs)

On 5 October 2008, the eight (8) PNP delegates, together with their wives and Ms. Cynthia A. Versoza, left Manila and arrived in St. Petersburg on 6 October 2008 and stayed there until 11 October 2008.

On their way back to Manila, Police Director Eliseo Dela Paz and his wife, Maria Fe C. Dela Paz (who both attended the INTERPOL Assembly) were barred by RF Customs Officials from boarding their plane at the Shremetyevo International Airport in Moscow after they were found carrying the sum of €105,000 more or less, without a valid declaration. Such amount is in excess of the allowed outbound limit in RF.

Several days later, the Philippine Media broke the news regarding this incident. The public furor that followed caused both houses of Congress to conduct their own investigation and later on forward the result of their investigation to the Office of the Ombudsman, which also conducted its own fact-finding investigation.



On 2 August 2010, the Field Investigation Office (FIO) of the Ombudsman filed a complaint against the delegates of the PNP and those involved in the processing of the travel. A special panel was created to conduct the necessary preliminary investigation.

On 29 April 2011, the special panel issued a Joint Resolution, indicting Dela Paz for violation of Article 237 of the Revised Penal Code or Prolonging Performance of Duties and Powers, and the Dela Paz Spouses for violation of Circular No. 507, in relation to Section 36 of RA 7635 (New Central Bank Act). These two cases were docketed as SB-11-CRM-0291 and SB-11-CRM-0292.

On 19 July 2011, the spouses Dela Paz filed their Motion for Reconsideration (MR), stating therein that they only received the 29 April 2011 Joint Resolution of the Office of the Ombudsman on 14 July 2011 and praying for the dismissal of all the charges against them.

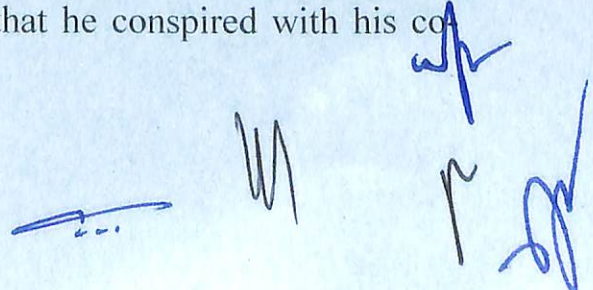
On 14 November 2011, the Office of the Ombudsman denied the 19 July 2011 MR and ordered the conduct of further preliminary investigation in the above two cases and created another Special Panel of Investigators/Prosecutors for this Purpose. It also ordered a complete preliminary investigation for the other persons involved in the processing of the travel for the INTERPOL Assembly. Due to this, on 21 February 2012, the Sandiganbayan suspended the proceedings of these two cases.

On 8 January 2014, the present cases, SB-14-CRM-0002 to 0010, were filed. Thereafter, the accused were arraigned and trial of the cases ensued. After the Prosecution has rested its case, all the accused moved for leave of court to file their respective demurrers to evidence. Such motion was granted. Thus, this resolution.

ARGUMENTS OF THE PARTIES

(1) Accused Caringal [Criminal Case No. SB-14-CRM-0003, For: Violation of Section 3 (e) of R.A. No. 3019]

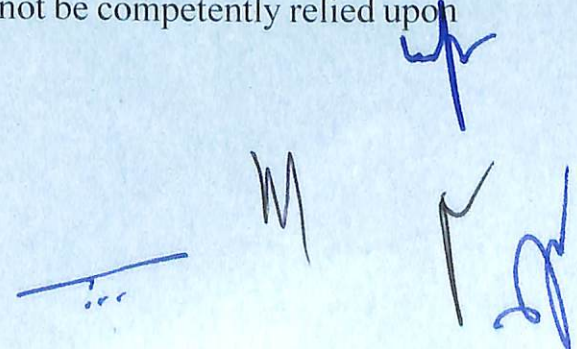
In his *Demurrer to Evidence*, accused Caringal claims that (1) there is no proof that the government suffered undue injury in the amount of PhP1,644,420.00; (2) that he did not give himself any unwarranted benefit; (3) that there is no evidence that he participated in the INTERPOL Assembly with manifest partiality, evident bad faith, or gross inexcusable negligence, and (4) that the prosecution failed to prove that he conspired with his co-accused to commit the crime charged.



First, accused Caringal states that while the prosecution presented AOM No. 2009-06 (Exhibits "Q⁵-2 to Q⁵-4") which flagged as questionable the release of approximately PhP10,000,000.00 from the PNP's CIF which were used to defray the PNP's expenses for the INTERPOL Assembly, the COA, acting through its Head for ICFAU, witness Dir. Plasas, sent a formal notice to the PNP (Exhibit "Q⁵-16") informing the latter that AOM No. 2009-06 has already been set aside since the amount of PhP10,000,000.00 was refunded and deposited to the General Fund of the Bureau of Treasury. Accused Caringal adds that witness Dir. Plasas also affirmed that the eventual return of the PhP10,000,000.00 meant that no expense was charged to the government. Thus, he claims that the government could not have suffered any pecuniary damage since no unauthorized or illegal expense was charged against its account.

Second, accused Caringal avers that the prosecution did not present any evidence that he was involved in the selection of the PNP delegates to the INTERPOL Assembly or that he purposely sought to be included therein. The prosecution witness Atty. Ramos also allegedly confirmed that his investigation did not inquire if the accused PNP officials committed any overt act in order to be chosen as delegates, and that based on records, they were merely recommended by their superiors. Accused Caringal asserts, therefore, that there is no basis that he allegedly gave himself any unwarranted benefit.

Third, accused Caringal states that the prosecution was not able to prove that he attended the INTERPOL Assembly with manifest partiality, bad faith, or gross inexcusable negligence, when he was then due to retire within one (1) year from the date of travel. Accused Caringal claims that the prosecution relied on the written opinion of witness Atty. Ronquillo, Assistant Commissioner for Legal Concerns at the CSC (Exhibit "V⁴") where he opined that the travel ban on retirable officials admits of only two (2) exceptions, namely, (1) when it involves ministerial meetings and (2) scholarship or training that are of no expense to the government. Accused Caringal argues that the foregoing opinion cannot be considered credible and competent evidence since witness Atty. Ronquillo himself admitted during cross-examination that it was only his personal opinion and that the same was not binding to anyone. Witness Atty. Ronquillo likewise testified that the term "official commitment of the agency," which was supposedly the second exception to the travel ban does not appear in the four (4) regulations that he reviewed in the course of preparing his written opinion. Hence, accused Caringal avers that the said written opinion cannot be competently relied upon as basis to convict him of the crime charged.

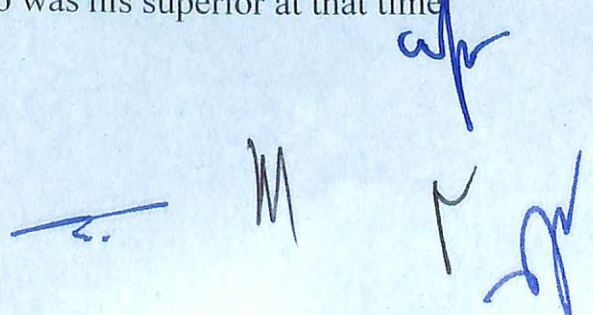


Lastly, accused Caringal argues that the evidence of the prosecution failed to establish that he conspired with his co-accused to commit the crime charged. He claims that the prosecution failed to prove that he had any knowledge of the alleged criminal design of the other accused, if any; or that he had intentionally participated therein; or that his actions were done with a view to the furtherance of a common design or purpose. Accused Caringal maintains that he attended the INTERPOL Assembly as a matter of duty and in compliance with the directives of his superiors, who were not included in the instant case. He claims that the prosecution also never adduced evidence that he was an accountable officer and that he had any authority/discretion over the PNP's confidential and intelligence funds. The charge of conspiracy is allegedly based on nothing more than conjecture and speculation.

(2) Accused Rafanan, Pestaño and Rodriguez [Criminal Cases Nos. SB-14-CRM-0002 and SB-14-CRM-0005 to SB-14-CRM-0010, For: Violation of Section 3 (a) and (e) of R.A. No. 3019 and Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

Accused Rafanan, on the other hand, in his *Joint Demurrer to Evidence* filed with Pestaño and Rodriguez, claims that his travel was covered by a Travel Authority issued by the NAPOLCOM dated 04 September 2008 which is signed and approved by DILG Secretary Ronaldo V. Puno. He was allegedly merely chosen as one of the delegates because of an invitation that he will be one of the members in the panel that will report about intelligence gathering activities in Southeast Asia. Accused Rafanan mentions that prosecution witness Atty. Ronquillo affirmed that his travel was authorized and allowed under PNP Circular No. 2002-17, which is the circular that lists down the general guidelines for filing of applications for travel abroad of all PNP personnel. He claims that there is no provision in the rules or law which provides that he is not allowed to travel within one (1) year from date of retirement. Thus, accused Rafanan contends that the allegation of undue injury caused by him to the government when he attended the INTERPOL Assembly was not supported by facts, law, and jurisprudence.

Accused Pestaño and Rodriguez also claim that the prosecution was not able to prove that they are liable for the crimes charged. At the outset, accused Rodriguez mentions that his designation was erroneously identified as Special Disbursing Officer of CIF of the PNP. He claims that he is the Deputy Chief of Finance Service Office-14, assigned at the Directorate for Intelligence. He adds that he is also the regular disbursing officer of the Directorate for Intelligence. He claims that the matter of disbursement of CIF to accused Dela Paz is not upon his instance nor Pestaño's, who was his superior at that time



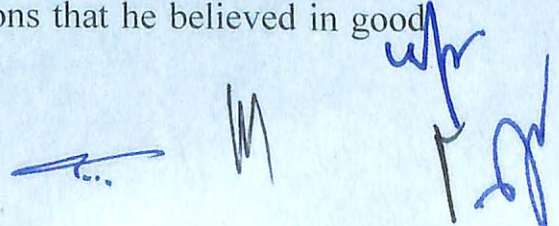
Accused Pestaño and Rodriguez claim that they should not be held criminally liable because they had issued a Memorandum to accused Dela Paz where they mentioned that the latter should be guided by Section 106 of Presidential Decree 1445, which provides that “no accountable officer shall be relieved from liability by reason of his having acted under the direction of a superior officer in paying out, applying, or disposing of the funds or property with which he is chargeable, unless prior to that act, he notified the superior officer in writing of the illegality of the payment, application, or disposition.” They assert that they merely followed the chain of command when accused Dela Paz instructed accused Rodriguez, through accused Rentoy, to source PhP10,000,000.00 from the CIF. They mentioned that the release of the fund bears the acquiescence of then PNP Chief Jesus Verzosa who was not included in the filing of the criminal charges.

Lastly, accused Pestaño and Rodriguez argue that the charge for the use of PhP10,000,000.00 taken from the CIF was not adequately proven by the prosecution because the same was returned to the government. They also mentioned that the travel expense for each of the delegates came from CMA funds contrary to the claim of the prosecution that the same came from the CIF.

(3) Accused Dela Paz [Criminal Cases Nos. SB-14-CRM-0002, SB-14-CRM-0003, and SB-14-CRM-0005 to SB-14-CRM-0010, For: Violation of Section 3 (a) and (e) of R.A. No. 3019 and Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

Accused Dela Paz claims that the prosecution failed to prove the elements of the crimes charged against him. For violation of Article 220 of the Revised Penal Code or Technical Malversation, accused Dela Paz argues that the evidence presented by the prosecution failed to show that the amounts subject matter of the cases were appropriated by law or ordinance for a specific purpose. He claims that while witness Dir. Lipana stated that the intelligence funds are allocated through the GAA, the prosecution failed to show that the GAA allocated the funds as such since the Implementing Rules and Regulations (“IRR”) for the 2008 GAA was not even published or in existence. Accused Dela Paz also claims that witness Dir. Lipana affirmed on cross-examination that he had no participation or involvement in the audit that was done in relation to the subject funds, and that he has no personal knowledge of the facts and circumstances surrounding the issuance of the AOM relating to this case.

Moreover, accused Dela Paz asserts that not a single centavo of the PhP7,000,000.00 was actually used or spent by him and that it was immediately returned to the treasury. He mentions that he believed in good



faith the legality of the release of the amount given to him in connection with his participation as a delegate at the INTERPOL Assembly. He claims that the presumption of regularity in the performance of the official acts of the accused still stands absent evidence to the contrary.

Accused Dela Paz also argues that no notice of disallowance was issued by the COA, hence, there can be no use or misuse of public funds to be liable for Technical Malversation.

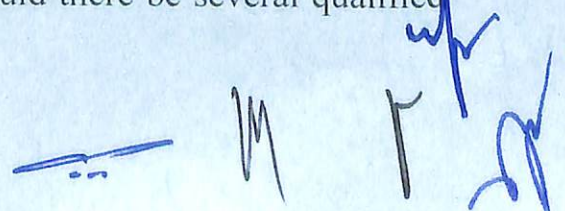
As regards the violation of Section 3(e) of R.A. No. 3019, accused Dela Paz reiterates that he believed in good faith that the release of the subject amount of money to him was lawful. There was allegedly no witness who testified that he acted with manifest partiality, evident bad faith, or gross inexcusable negligence. He also claims that no undue injury was caused to any party or the government after he returned the subject amounts to the treasury.

Lastly, accused Dela Paz argues that he cannot be held liable for violation of Section 3(a) of R.A. No. 3019 because the prosecution was not able to show that he persuaded, induced or influenced another officer to commit an act which constitutes a violation of any rules and regulations. He claims that it is not within his prerogative to choose who the delegates to the INTERPOL Assembly will be.

(4) Accused Ricardo [Criminal Cases Nos. SB-14-CRM-0003 and SB-14-CRM-0004, For: Violation of Section 3 (e) of R.A. No. 3019]

Accused Ricardo states that the prosecution failed to prove that he acted with manifest partiality, evident bad faith, or gross inexcusable negligence by recommending himself and his co-accused as delegates to the INTERPOL Assembly. He contends that the powers, duties, and functions of a Directorate of Plans (“DPL”) are purely administrative in character and do not include the approval of the utilization and release of money from the funds of the PNP. He maintains that his recommendation was not the operative act which allowed his co-accused to be approved as delegates to the INTERPOL Assembly because the same could have been rejected and totally ignored by the Evaluation Board, the PNP Chief, or the DILG Secretary.

Accused Ricardo cites NAPOLCOM Memorandum Circular No. 09-025 which lays down the criteria to be applied in the evaluation and selection of recommendees for local and foreign trainings, seminars, or symposia, which provides, among others, that priority shall be given to those personnel whose educational qualification and positions are relevant to the trainings/seminars to be attended, and that should there be several qualified

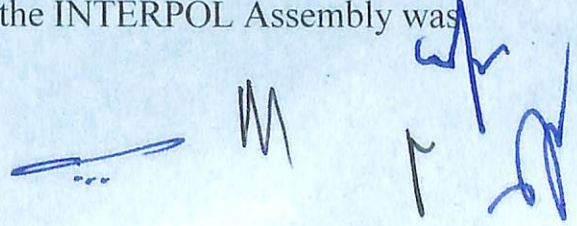


candidates, priority shall be given to those who are forty-five (45) years old and below. Accused Ricardo argues that the prosecution neither alleged nor presented evidence to show that the accused delegates did not have the educational qualifications and positions relevant to the INTERPOL Assembly or that there were other qualified candidates who were forty-five (45) years old and below. Hence, accused Ricardo asserts that manifest partiality, evident bad faith, or even gross inexcusable negligence is absent in his case.

Accused Ricardo also states that he did not give unwarranted benefits, advantage, and preference to himself and to his co-accused by recommending themselves to be the delegates to the INTERPOL Assembly. He contends that his responsibility as DPL is merely to provide a list of recommendees to the Evaluation Board who would thereafter submit the same to the PNP Chief for endorsement to the DILG Secretary. He maintains that the proper procedure for the approval of the delegates for foreign travel and issuance of Foreign Travel Authority to attend the INTERPOL Assembly has been complied with. He cites the Memoranda dated 15 August 2008 (Exhibit "UU") and 02 September 2008 (Exhibit "AAA") which show that his recommendation passed through the members of the Evaluation Board, namely, the Deputy Chief of Administrator, the Deputy Chief of Operations, and the Deputy Chief of Directorial Staff who all affixed their signatures signifying their approval prior to its transmittal to the PNP Chief. He adds that PNP Chief Avelino Razon certified in the letters dated 28 August 2008 (Exhibit "VV") and 16 September 2008 (Exhibit "BBB") that the "subject PCOs are qualified to travel abroad with existing rules and regulations." Likewise, he mentions that DILG Secretary and NAPOLCOM Chairman Ronaldo V. Puno also made the same certification in his letters dated 04 September 2008 (Exhibit "XX") and 02 October 2008 (Exhibit "CCC"). Accused Ricardo asserts that the Evaluation Board, PNP Chief, or the DILG Secretary could have easily disapproved the list. The prosecution allegedly did not provide evidence that accused Ricardo exercised power or influence over the approving authorities in order that they may approve his recommendation.

Accused Ricardo also states that the prosecution failed to prove that he acted with manifest partiality, evident bad faith, or gross inexcusable negligence in attending the INTERPOL Assembly and receiving the total amount of PhP1,644,420.00. He claims that it was accused Dela Paz who ordered accused Rodriguez that the travel allowance of the delegates would be sourced from the CIF.

Accused Ricardo argues that as DPL, he had no power to approve the amount of money to be utilized by PNP personnel for foreign travel, to release such funds, and to select the source of funds. He alleged that his recommendation as to the funds to be used for the INTERPOL Assembly was



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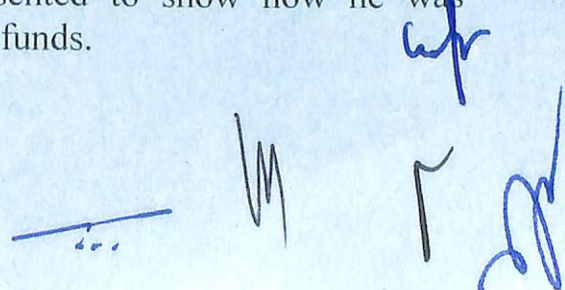
subject to the approval of the PNP Chief and DILG Secretary. Furthermore, accused Ricardo claims that the government did not suffer undue injury in view of the restitution of the full amount of PhP10,000,000.00.

Accused Ricardo also argues that the prohibition under Section 16-C of the 2008 GAA is not self-executory and cannot be used as basis for prosecution under Section 3 (e) of R.A. No. 3019. He claims that the provision which prohibits retiring uniformed personnel of the DILG and the DND falls under a section which expressly required the issuance of rules and regulations by the DBM, in coordination with the COA, for its implementation. He states that the prosecution neither alleged nor showed that the DBM and the COA issued the corresponding IRR. Thus, accused Ricardo claims that absent the IRR, the alleged violation of the prohibition on foreign travel of retiring officials cannot be a valid source of right of action.

Lastly, accused Ricardo alleges that CSC Opinion No. 6, s. 2008 dated 14 January 2008 issued by witness Atty. Ronquillo, which pertains to the meaning of "official commitment of the agency" in relation to the travel ban of retiring officials, has no binding effect on the Court since it only refers to an administrative interpretation of law. Accused Ricardo adds that witness Atty. Ronquillo also admitted in Court that the CSC Opinion prepared by him as the Head of the Office of Legal Affairs has no binding effect. Further, witness Atty. Ronquillo allegedly admitted that the laws and regulations cited in the CSC Opinion does not prohibit officials of the government due to retire within one year to travel abroad.

(5) Accused Rentoy [SB-14-CRM-0002 and SB-14-CRM-0005 to SB-14-CRM-0010, For: Violation of Section 3 (a) and (e) of R.A. No. 3019 and Illegal Use of Public Funds or Property, Article 220 of the Revised Penal Code]

Accused Rentoy avers that the prosecution failed to establish the elements of the crimes charged. As regards the violation of Section 3(a) of R.A. No. 3019, accused Rentoy claims that the same requires that the perpetrator acted with deliberate intent to violate a certain rule duly promulgated by competent authority. He asserts that the prosecution did not adduce evidence to show that he allowed himself to be influenced or to be induced by his superior officer in disbursing the amount PhP10,000,00.00 to be used as contingency and travel allowance in the INTERPOL Assembly. He maintains that the prosecution merely assumed that he allowed himself, as Director of Budget Division, Directorate for Comptrollership, to be influenced because there was no direct evidence presented to show how he was influenced by accused Dela Paz to release the funds.



Accused Rentoy also argues that the prosecution failed to prove that his act of releasing the amounts of PhP2,192, 560.000, PhP807,440.00, and PhP7,000,000.00 violated Section 3 (e) of R.A. No. 3019. He claims that the prosecution failed to show that he committed prohibited acts during the performance of his duty as his act of disbursing the subject amounts was allegedly within the scope of his authority as Special Disbursing Officer. He alleges that a public officer is presumed to have acted in good faith in the performance of his duties.

Moreover, accused Rentoy claims that there was no evidence shown that he participated in the selection of the delegates to attend the INTERPOL Assembly. Hence, the element of giving unwarranted benefits, advantage or preference is lacking. He adds that there was also no evidence that his acts exhibited manifest partiality, evident bad faith or gross inexcusable negligence as there was no proof that he had discretion over whom and how the fund to be disbursed would go to.

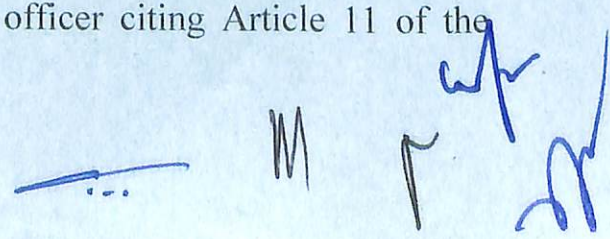
Furthermore, similar with his co-accused, accused Rentoy claims that the prosecution failed to prove to the point of moral certainty that there was undue injury done to the government considering that AOM No. 2009-06 has been set aside due to the refund of the subject amount to the general treasury.

With regard to the charge of Technical Malversation, accused Rentoy contends that the prosecution failed to prove that the subject fund was clearly appropriated by a law or ordinance, and that the use of the same was illegal. He claims that the basis of the prosecution to say that the intelligence funds should only be used for a specific purpose are COA Circulars, which are neither law nor ordinance. He adds that the prosecution witness, Dir. Lipana, did not qualify whether the disbursements made were not chargeable under the CIF.

Lastly, accused Rentoy argues that the prosecution was not able to allege specific acts of conspiracy among the accused. He claims that his attendance in the INTERPOL Assembly is not by itself an evidence of his active criminal participation since he was merely performing his duty as Director of the Budget Division. He states that his participation in the alleged anomalous transaction is not considered indispensable or even necessary for the commission of the alleged acts.

(6) Accused Doria [Criminal Case No. SB-14-CRM-0003, For: Violation of Section 3 (e) of R.A. No. 3019]

Accused Doria argues that the acts committed by him was the result of obedience to a lawful order of a superior officer citing Article 11 of the



Revised Penal Code. He states that he was selected to be a part of the delegation to attend the INTERPOL Assembly based on a Memorandum issued by accused Ricardo, addressed to PNP Chief Avelino Razon, recommending the PNP Departments from which the delegates should come from. The said recommendation of accused Ricardo was approved by the PNP Chief and the DILG Secretary and the Foreign Travel Authority was issued. He alleges that since his participation in the INTERPOL Assembly underwent several levels of approval, he had no doubt that his participation was valid and legal.

Accused Doria also states that the 2008 GAA, which enumerates the restrictions on the use of government funds, is not a self-executory law. He claims that the law itself requires an enabling law for it to be operative. Thus, he concludes that absent such enabling law, the prosecution has no basis to conclude that he committed a violation of Section 3 (e) of R.A. No. 3019.

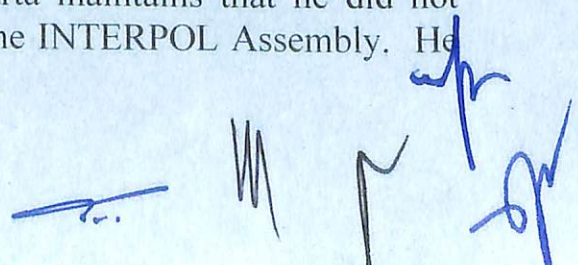
Moreover, accused Doria argues that he did not volunteer himself to attend the INTERPOL Assembly. He avers that what is prohibited is the act of sending public officials and employees to foreign training when they are due to retire within one (1) year after the said travel.

Lastly, accused Doria mentions that there was no undue injury to any party, including the government. He asserts that he was not the person in charge of selecting the source of funds or of releasing the same. He claims that he was not even aware of the source of their travel allowance. He also alleges that upon order of the COA, he immediately restituted the amount he received.

(7) Accused Carta [Criminal Case No. SB-14-CRM-0003, For: Violation of Section 3 (e) of R.A. No. 3019]

Accused Carta states that the Doctrine of Qualified Political Agency applies since the selection and approval of the delegation was under the auspices of then DILG Secretary Ronaldo Puno. Under the said Doctrine, he claims that department secretaries are alter egos of the President and their acts are presumed to be those of the latter unless disapproved or reprobated by him/her. Accused Carta asserts that DILG Secretary Ronaldo Puno, as designated approving authority, had complete control to implement the pertinent laws, rules, and regulations on travel. Hence, he concludes that the approval of the DILG Secretary implies that their travel to attend the INTERPOL Assembly has the approval of the President during that time.

Similar to his co-accused, accused Carta maintains that he did not volunteer himself to one of the delegates to the INTERPOL Assembly. He



was allegedly merely recommended to be one of the delegates and later assigned as replacement of the PNP Chief to head the delegation after then PNP Chief Edgardo Versoza begged off from being part of the same. He argues that he had no control of the selection process nor the release of the funds. He admits that all he did was to acknowledge the release of PhP274,070.75 and to use it for the purpose stated in the travel order. He adds that the release of the funds was duly approved by the PNP Chief and the DILG Secretary.

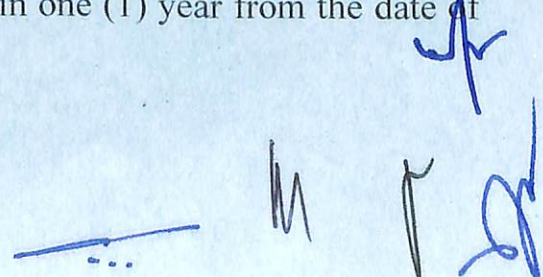
Accused Carta states that the prosecution failed to present any clear and convincing evidence to sustain a finding of bad faith on his part or that he caused undue injury to any party, including the government, or that he gave any party unwarranted benefits, advantage, or preference. Accused Carta avows that he voluntarily refunded the full amount he received to the government. Accused Carta also mentions that the Court should take cognizance of an earlier complaint involving the same parties, facts, and issues, which was dismissed by the Office of the Ombudsman docketed as OMB-C-C-10-0334-H.

(8) Comments/Oppositions of the Prosecution³⁴

The prosecution maintains that all the accused conspired and acted with manifest partiality, evident bad faith or at the very least gross inexcusable negligence when they recommended that they be included as delegates to the INTERPOL Assembly; facilitated the irregular release of the CIF for their travel expenses; and actually received the travel allowance and attended the INTERPOL Assembly knowing that they are not qualified.

The prosecution states that in the letter dated 14 January 2008 (Exhibit "V⁴") of witness Ronquillo, the latter explained that the travel ban on all officials, not only of retirable officials, of the government is a result of the austerity measures adopted by the government in order to channel its scarce resources towards the implementation of the 10-Point Legacy Agenda. The prosecution claims that all foreign travels of government employees and officials were suspended through Section 1(a)(1) of Administrative Order No. 103. The prosecution also alleges that the same ban was reiterated in Section 3 of Executive Order No. 103 dated 31 August 2004 and PNP Circular No. 2002-017. The prosecution also cites NAPOLCOM Memorandum Circular No. 95-025, which states that priority shall be given to all those who are 45 years old and below for official foreign travel, in connection with the 2008 GAA prohibiting uniformed personnel to be sent to foreign trainings or conferences when they are due to retire within one (1) year from the date of

³⁴ Records, Vol. 10, pp. 36-63, 83-125, 150-180.



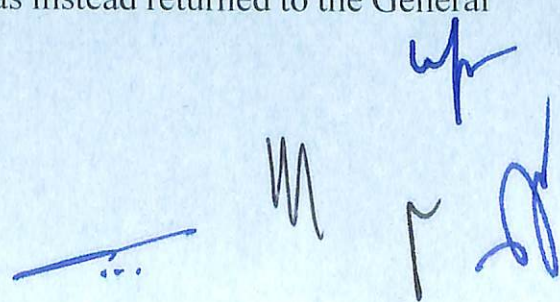
the foreign travel. The prosecution states that the accused are clearly disqualified to attend the INTERPOL Assembly since they were 55 years old when they attended the same. Moreover, the prosecution adds that even if they fall under the exceptions, there must have been no cost incurred by the government.

The prosecution also states that the INTERPOL Assembly is not an intelligence or counter-intelligence activity and accused PNP officials are not intelligence operatives who are entitled to intelligence funds. The expense charged to the intelligence fund is allegedly violative of Section 89 of Presidential Decree No. 1445 or the Government Auditing Code of the Philippines which states that “no cash advance shall be given unless for a legally authorized specific purpose.” The prosecution also mentions that no document was submitted by the accused PNP officials to the COA to support the disbursement of the intelligence fund. The prosecution cites the testimonies of its witnesses Dir. Lipana and Dir. Plaras, among others.

The prosecution likewise cited COA Circular No. 2003-002 dated 30 July 2003 which provides the documentary requirements in the audit and liquidation of CIF for national and corporate sectors. According to the prosecution, the accused PNP officials did not submit proof that the subject PhP10,000,000.00 was utilized in accord with existing rules and regulations governing the use of CIF. The prosecution asserts that the refund was made as a mere afterthought and should be taken as an admission by the accused of the unlawful expenditure of public funds.

Moreover, the prosecution stressed that witness Jaime V. Serrano, then COA PNP resident auditor, testified that the latter found that the subject travel expenses in the total amount of PhP2,192,566.00 charged to the regular fund did not pass the normal process of disbursement. He also claims to have found that Journal Entry No. 08-10-4999 dated 31 October 2008 was cancelled which proves an attempt to reimburse and make it appear that the fund was sourced from the regular fund through the preparation of undated and unnumbered disbursement vouchers.

As regards undue injury, the prosecution argues that the subject fund used by the PNP officials for their travel expenses should have been used to defray the costs of intelligence and counter-intelligence operations. The prosecution maintains that the PNP was deprived of PhP10,000,000.00 for nine (9) months from the date of release until the refund. The prosecution adds that the alleged return of the funds did not redound to the benefit of intelligence operatives of the PNP since it was instead returned to the General Fund of the Bureau of Treasury.



Lastly, the prosecution maintains that the issues raised by the accused are mostly evidentiary in character and matter of defenses that should be proved in trial.

RULING

The ruling shall be discussed in three parts according to the crimes charged.

Violation of Section 3(e) of R.A. 3019

Sec. 3(e) of R.A. 3019, provides:

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx

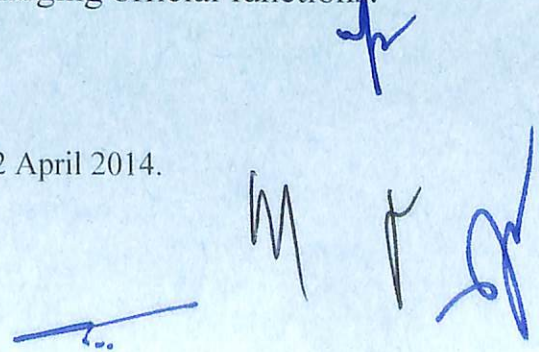
(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The Supreme Court enumerated the following essential elements of violation of Sec. 3(e) of R.A. No. 3019:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.³⁵

In all the cases involving the charge of violation of Sec. 3(e), there is no issue as to the existence of the first element; during the time material to the case, all the accused were public officers discharging official functions.

³⁵ *Consigna vs. People, et al.*, G.R. No. 175750-51, 02 April 2014.



What is left for determination are (1) whether or not there is sufficient evidence to prove that the accused acted with manifest partiality, evident bad faith, or inexcusable negligence; and (2) whether their actions caused undue injury to the government or that their actions gave any private party unwarranted benefits, advantage or preference in the discharge of their functions.

SB-14-CRM-003

In this case, the six officers who attended the INTERPOL Assembly and were due to retire within one year from the date of the assembly but did not participate in the processing of the travel documents are charged. The accused officers are: Dela Paz, Ricardo, Carta, Rafanan, Doria, and Caringal. The other two officers who participated in the INTERPOL Assembly but were not due to retire within one year from the date of the assembly, namely Pelobello and Alarcio, were not included in any of the cases.

The Information alleged that the accused in this case committed the crime in the following modes:

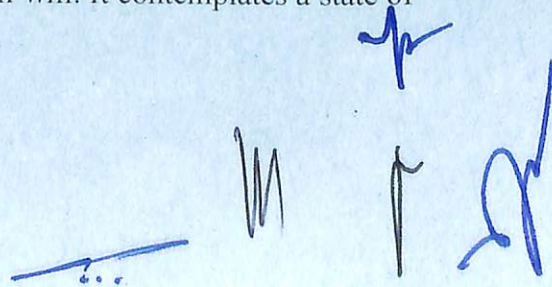
1. with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence, the accused attended the General Assembly knowing that they were due to retire within one year and as such, were prohibited under the law; and
2. that they gave themselves unwarranted benefits, advantage and preference by their attendance;

that thereby caused undue injury to the PNP and the government.

In *Uriarte vs. People*³⁶ the Supreme Court stated that Sec. 3(e) is committed by *dolo* when the accused acted with evident bad faith or manifest partiality or by *culpa* when the accused committed gross inexcusable negligence:

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is manifest partiality when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. Evident bad faith connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of

³⁶ G.R. No. 169251, 20 December 2006.



mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. Gross inexcusable negligence refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

Evident bad faith imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong.³⁷ Akin to the nature of fraud, it is a breach of a sworn duty through some motive or ill will.³⁸ It does not simply connote bad judgement or negligence, there is a manifest or deliberate intent on the part of the accused to do wrong or cause damage.³⁹

In this case, the prosecution claims that all the accused knew that they were disqualified under the GAA from travelling abroad to attend foreign trainings, conference or international commitments and such knowledge is tantamount to evident bad faith or manifest partiality or at the very least, gross inexcusable negligence.

However, except for the showing that accused are high ranking officials who should have known the rules and disregarded these rules, there is no evidence that such disregard was attended with the gravity required by law to hold them criminally liable for graft and corruption. What the prosecution only focused on proving was that these officers violated the prohibition in the GAA. They did not show that such violation had a criminal design that would clearly show that these officers are criminally guilty of graft and corruption.

A violation of Sec. 3(e) does not only require that a violation of the law was made, it also requires that such was done with evident bad faith, manifest partiality, or at the very least, with gross inexcusable negligence.

It is well settled that a public officer is presumed to have acted in good faith in the performance of his duties.⁴⁰ In the case of *Soriano v. Marcelo*⁴¹ it was stated that mistakes by public officers are not actionable without any clear proof that such was deliberately done for some motive of self-interest or ill will for ulterior purpose:

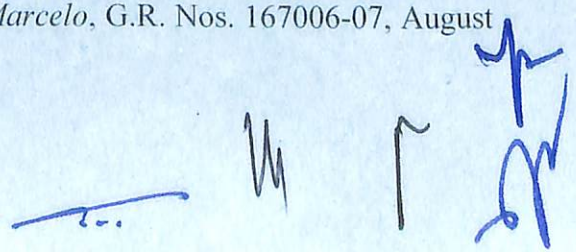
³⁷ *Pecho v. Sandiganbayan*, 238 SCRA 116, 14 November 1994 citing *Spiegel vs. Beacon Participations* 8 NE 2nd Series, 895, 1007.

³⁸ *Id.*

³⁹ *People of the Philippines v. The Honorable Sandiganbayan (4th Division) and Henry Barrera*, G.R. No. 153952-71, 23 August 2010.

⁴⁰ *Zapanta v. People*, 757 SCRA 172 (2015), p. 194.

⁴¹ 555 SCRA 85 (2008), p. 94 citing *Collantes v. Marcelo*, G.R. Nos. 167006-07, August 14, 2007, 530 SCRA 142.



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“ x x x Mistakes committed by a public officer are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith. “Bad faith” does not simply connote bad moral judgment or negligence. There must be some dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a sworn duty through some motive or intent or ill will. It partakes of the nature of fraud. It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes. x x x”

Thus, even if there was a violation of the General Appropriations Act on sending the retiring delegates, there was no evidence that such was unjustified or done without adequate reason. There is no showing that the attendance of the officers did not benefit the PNP or the government. In fact, the evidence presented by the Prosecution shows that the INTERPOL Assembly was an official activity and thus, negates the accused’s alleged evident bad faith. The participation of the accused officers was not attended by any motive or gain. The presumption of good faith in favor of a public officer remains.

On the second mode, the prosecution alleges that by the participation of the officers in the assembly, they gave themselves unwarranted benefits, advantage and preference. To emphasize, Sec. 3(e) of R.A. 3019 states that the second mode of committing this crime is by “giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.” The law is clear that the receiver of this advantage is a private individual and not public officers.

In addition, even assuming that the second mode could also apply to public officers, there is no proof that the participation of the accused in the INTERPOL Assembly gave these officers a benefit or an advantage over those who did not attend.

On the third element, that undue injury was caused to the government, the Prosecution claims that the 10 Million should have not left the coffers of the PNP funds unless for a legally authorized purpose. They claim that the funds should have been used instead to defray the costs of critical police intelligence and counter-intelligence operations and that the PNP was deprived of CIF worth 10 Million for nine months. It is also alleged that because the refund was made to the general funds of the government, the PNP was deprived of its use of the fund.

The Court has consistently held that “undue injury” is “actual damage.”⁴² The case of *Llorente, Jr. vs. Sandiganbayan*⁴³ provides what needs to be established by the prosecution for the courts to consider it as an element of the crime. In this case, the municipal mayor was charged under Sec. 3(e) for allegedly refusing to sign payment of the salaries of an employee without just cause and without due process, thereby causing undue injury to this employee. The Supreme Court, in reversing the ruling of the Sandiganbayan held that the employee did not suffer any “undue injury” because there was subsequent payment of all her monetary claims:

The solicitor general, in his manifestation, points out that “undue injury” requires proof of actual injury or damage, citing our ruling in *Alejandro vs. People* and *Jacinto vs. Sandiganbayan*. Inasmuch as complainant was actually paid all her claims, there was thus no “undue injury” established.

This point is well-taken. Unlike in actions for torts, undue injury in Sec. 3(e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.

In jurisprudence, “undue injury” is consistently interpreted as “actual damage.” *Undue* has been defined as “more than necessary, not proper, [or] illegal;” and *injury* as “any wrong or damage done to another, either in his person, rights, reputation or property[;] [that is, the] invasion of any legally protected interest of another.” Actual damage, in the context of these definitions, is akin to that in civil law.

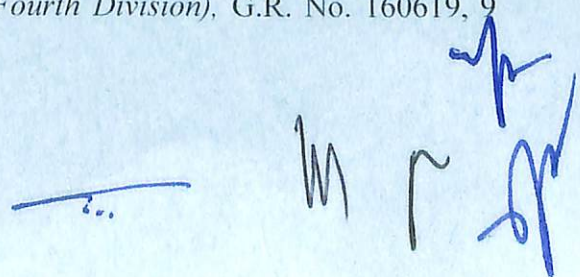
In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

“Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.”

Fundamental in the law on damages is that one injured by a breach of a contract, or by a *wrongful or negligent act or omission* shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant’s act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other kinds

⁴² *People of the Philippines vs. Sandiganbayan (Fourth Division)*, G.R. No. 160619, 9 September 2015.

⁴³ 202 SCRA 309, 3 October 1991.



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of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury.

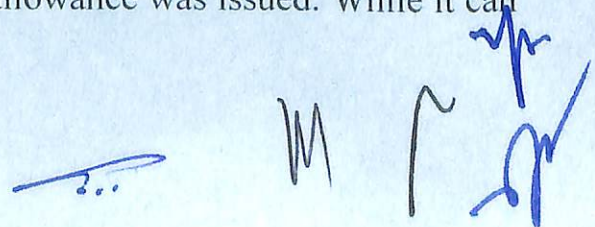
In this case, the complainant testified that her salary and allowance for the period beginning July 1990 were withheld, and that her family underwent financial difficulty which resulted from the delay in the satisfaction of her claims. As regards her money claim, payment of her salaries from January 1991 until November 19, 1991 was evidenced by the Sheriff's Return dated November 19, 1991 (Exh. D). She also admitted having been issued a check on January 4, 1994 to cover her salary from June 1 to June 30, 1990; her salary differential from July 1, 1989 to April 30, 1990; her thirteenth-month pay; her cash gift; and her clothing allowances. Respondent Court found that all her monetary claims were satisfied. After she fully received her monetary claims, there is no longer any basis for compensatory damages or undue injury, there being nothing more to compensate.

Complainant's testimony regarding her family's financial stress was inadequate and largely speculative. Without giving specific details, she made only vague references to the fact that her four children were all going to school and that she was the breadwinner in the family. She, however, did not say that she was unable to pay their tuition fees and the specific damage brought by such nonpayment. The fact that the "injury" to her family was unspecified or unquantified does not satisfy the element of undue injury, as akin to actual damages. As in civil cases, actual damages, if not supported by evidence on record, cannot be considered.

Other than the amount of the withheld salaries and allowances which were eventually received, the prosecution failed to specify and to prove any other loss or damage sustained by the complainant. Respondent Court insists that complainant suffered by reason of the "long period of time" that her emoluments were withheld.

This inconvenience, however, is not constitutive of undue injury. In *Jacinto*, this Court held that the injury suffered by the complaining witness, whose salary was eventually released and whose position was restored in the plantilla, was negligible; undue injury entails damages that are more than necessary or are excessive, improper or illegal. In *Alejandro*, the Court held that the hospital employees were not caused undue injury, as they were in fact paid their salaries. (*citations omitted*)

In the present case, upon issuance of the COA of the AOM, the fund was returned to the government. Such return resulted to the setting aside of the AOM and therefore, no Notice of Disallowance was issued. While it can



be argued, as the Prosecution did, that the PNP as a distinct entity suffered undue injury because instead of the fund going back to its account, it went straight to the general fund of the government and thus, deprived of its probable use of the fund, such does not meet the requirement of the law to be violative of Sec. 3(e) of R.A. 3019. The law requires that the government, and not a specific agency or department, should suffer undue injury. Thus, when the fund was returned to the general fund, no undue injury was made to the government.

SB-14-CRM-004 and SB-14-CRM-005

The two cases shall be discussed together as the accused in these cases are the officers who were involved (1) in the processing of the documents and (2) the release of the funds for the INTERPOL Assembly. Except for Ricardo and Dela Paz, the three other accused Rodriguez, Pestaño, and Rentoy, did not join the delegation.

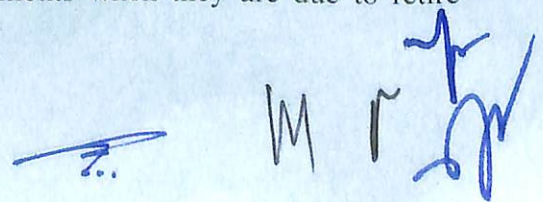
In *Crim Case No. SB-14-CRM-004*, the sole accused Ricardo is charged for allegedly causing undue injury to the government by willfully, unlawfully and criminally giving unwarranted benefits, advantage and preference to himself and the officers in the discharge of his function as Director for Plans of the PNP through manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence by recommending and certifying officers who were not qualified to participate in the assembly.

As the Director for Plans of the PNP, it was shown that Ricardo was one of the authorities who recommended the attendance of the retiring officers, including himself. This recommendation is violative of the GAA as it was specifically stated that no official of the DILG is allowed to attend international commitments when they are due to retire within one year after the foreign travel.⁴⁴

However, it was also shown in the prosecution's evidence (Exhibits "UU" and Exhibit "AAA") that his recommendation was submitted first for

⁴⁴ Section 16 (c) of the General Provisions of the General Appropriations Act for the year 2008 states:

No government fund shall be utilized to defray foreign travel expenses of any government official or employee, except in the case of training, seminar or conference abroad when the officials or other personnel of the foreign mission cannot effectively represent the country therein, and travels necessitated by international commitments; provided that no official or employee, including uniformed personnel of the Department of the Interior and Local Government (DILG) and Department of National Defense (DND) will be sent to foreign training, conferences or attend international commitments when they are due to retire within one year after the said foreign travel.



approval of the Evaluation Board, namely, the Chief of the Directorial Staff (TCDS), the Deputy Chief for Administration (TDCA), The Deputy Chief for Operations (TDCO), then to the PNP Chief, and finally, the DILG Secretary. Thus, it was not only Ricardo who approved the participation of the PNP delegates.

Even without the accused's evidence, prosecution evidence shows that the role of accused Ricardo, as Directorate for Plans, is to provide administrative support to the evaluation board. The pertinent provisions in the NAPOLCOM Memorandum Circular No. 95-025⁴⁵ states:

"2. All invitations for training/seminars/symposium both local and foreign shall pass the Evaluation Board to determine the relevance of the training/seminar/symposium to the present needs of the PNP. It shall determine which directorate/office/unit the training/conference would be most beneficial.

x x x

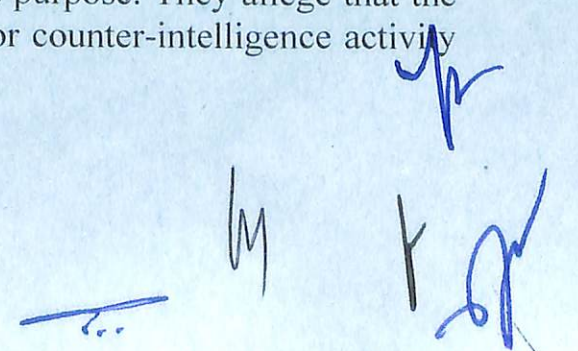
6. The Board shall submit the list of recommendees to the Chief, PNP for endorsement to SILG thru the Vice Chairman and Executive Officer x x x"

Thus, prosecution's evidence itself has established that the proper administrative procedure for the approval of the subject foreign travels was followed by Ricardo. The accused's reliance on their internal rules of procedure shall be given weight and can be interpreted to show good faith. This negates the allegation that Ricardo made the recommendation through manifest partiality, evident bad faith or gross inexcusable negligence as a requisite for a violation of Sec. 3(e) of R.A. 3019.

In *Crim Case No. SB-14-CRM-005*, Dela Paz, Rodriguez, Pestaño, and Rentoy were charged, allegedly in conspiracy with one another, for causing undue injury to the government by willfully, unlawfully and criminally giving unwarranted benefits, advantage and preference to the PNP delegation in the discharge of their functions in the PNP through manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence by releasing and disbursing the CIF to the delegates of the assembly.

The prosecution maintains that there was an irregular release of the CIF because the CIF fund was used contrary to its purpose. They allege that the INTERPOL Assembly is not an intelligence or counter-intelligence activity

⁴⁵ Exhibit "N⁵" to "N⁵-2".



X-----X

and accused PNP officials are not intelligence operatives who are entitled to intelligence funds.

Witness Dir. Plasas defined the CIF based on COA Circ. No. 88-293 as “funds allotted for national defense, national security, peace and order, internal security or counter insurgency, usually involving covert or classified operations, psychological warfare and surveillance operation and other specified intelligence and confidential operations of the national government as well as government owned or controlled corporations and local governments units.” As can be gleaned from the prosecution’s evidence, the use of the CIF covers a wide range of activities. Thus, in the absence of competent proof that the INTERPOL Assembly did not cover the above issues, we cannot rule that the activity cannot be covered under the fund.

The allegation of conspiracy among the accused in the release and disbursement of the CIF was also not proven. Except for the fact that the Prosecution alleged that the accused in this case are responsible for the acts, there is no showing that they intended to do a criminal act. The Court finds no credible proof that links or gives unifying purpose to the accused's individual acts.

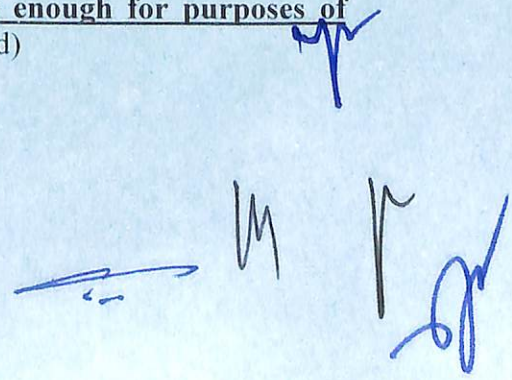
In the case of *Bahilidad v. People of the Philippines*,⁴⁶ the Supreme Court held:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, **the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.**⁴⁷ (Citations omitted, emphasis added)

⁴⁶ G.R. No. 185195, 17 March 2010.

⁴⁷ *Supra* note 46 at page 53.



Akin to the earlier discussion in Case No. SB-14-CRM-003, prosecution also failed to show that there is undue injury to the government because the funds disbursed were subsequently refunded to the government.

Violation of Section 3(a) of R.A. 3019

The officers charged in this case are the same officers charged in SB-14-CRM-005 or the officers who were involved in the disbursement of the CIF for the INTERPOL Assembly. Except for accused Dela Paz, accused Rodriguez, Pestaño, and Rentoy, did not participate in the INTERPOL Assembly.

Dela Paz is charged for persuading, inducing, or influencing Rodriguez, Pestaño, and Rentoy, in conspiracy with one another, to release and disburse 10 Million Pesos from the CIF of the PNP, as contingency fund and travel allowance of the PNP Delegation to the INTERPOL Assembly contrary to the GAA of 2008.

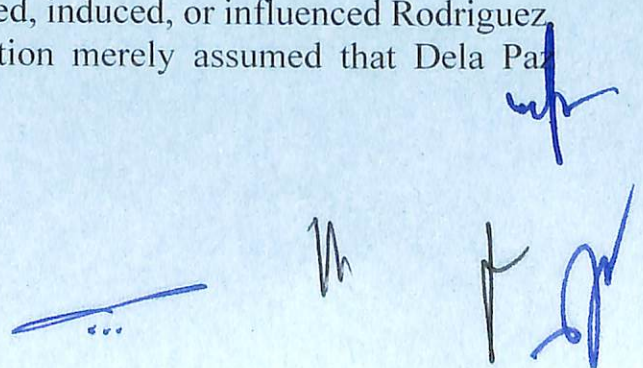
Sec. 3 (a) of R.A. 3019 provides:

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

- (a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

Persons liable under this section are (1) the public officer who persuades, induces or influences another public officer to violate the rules, and (2) the public officer who allows himself to be so persuaded, induced or influenced. To commit a violation of Section 3 (a), it must be proven that there is a violation of rules and regulations or a commission of an offense.

The prosecution claims that Dela Paz persuaded, induced, and influenced the officers under his authority to violate the rules. The prosecution focused on proving that the rules on disbursement was violated but it failed to show how Dela Paz could have persuaded, induced, or influenced Rodriguez, Pestaño, and Rentoy III. The prosecution merely assumed that Dela Paz exercised influence over these officers.



In the absence of proof of these alleged illegal acts, the Court cannot hold an accused liable for a criminal act that requires proof beyond reasonable doubt. Proof beyond reasonable doubt does not mean absolute certainty. What is required is only moral certainty, or that degree of proof which produces conviction in an unprejudiced mind.⁴⁸

Similar to the earlier cases, no conspiracy was proven. There is no proof that the accused's individual acts were committed for a single criminal design.

Violation of Article 220 of the Revised Penal Code or Illegal Use of Public Funds or Property

The officers charged in these three (3) cases are also the officers who were involved in the disbursement of the CIF for the INTERPOL Assembly. As stated earlier, except for accused Dela Paz, Accused Rodriguez, Pestaño, and Rentoy III, did not join the INTERPOL Assembly.

Article 220 of the Revised Penal Code provides:

Art. 220. *Illegal use of public funds or property.* - Any public officer who shall apply any public fund or property under his administration to any public use other than for which such fund or property were appropriated by law or ordinance shall suffer the penalty of prision correccional in its minimum period or a fine ranging from one-half to the total of the sum misapplied, if by reason of such misapplication, any damages or embarrassment shall have resulted to the public service. xxx

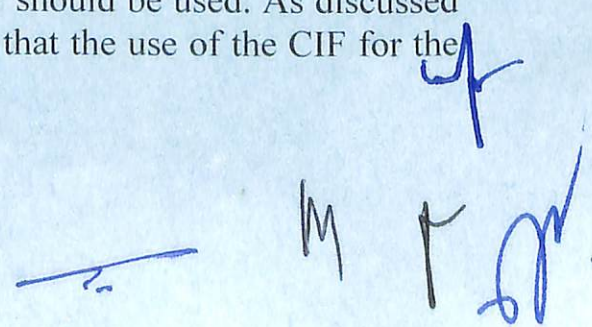
The elements of the crime are as follows:

1. That the offender is a public officer.
2. That there is public fund or property under his administration.
3. That such public fund or property has been appropriated by law or ordinance.
4. That he applies the same to a *public* use other than that for which such fund or property has been appropriated by law or ordinance.

There is no issue as to the first, second and third elements. What remains to be determined is whether or not the prosecution was able to prove beyond reasonable doubt that the CIF was used for some other public use outside the scope for which it was appropriated by the GAA.

In addition to the testimony of Dir. Lipana, the prosecution used the COA Circulars as basis to define how the CIF should be used. As discussed earlier, these pieces of evidence do not prove that the use of the CIF for the

⁴⁸ Sec. 2, Rule 133, Revised Rules on Evidence.



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expenses incurred by the PNP in its participation to the INTERPOL Assembly is not a covered expense. A violation of Art. 220 or Technical Malversation penalizes an officer who uses the fund under his administration for a public use other than what it was appropriated for.

In all criminal cases, the prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, it is the prosecution's duty to prove each and every element of the offense charged in order to warrant a finding of guilt for the same.⁴⁹ This the prosecution failed to do.

WHEREFORE, in light of the foregoing, the Court **GRANTS** the *Demurrer to Evidence* filed by Jaime Garcia Caringal, Ismael R. Rafanan, Orlando L. Pestaño, Samuel P. Rodriguez, Tomas G. Rentoy, Romeo T. Ricardo, Eliseo Dela Paz, German Doria, and Emmanuel Carta, as the evidence of the prosecution failed to sufficiently establish the essential elements of the crimes charged and to overcome the presumption of innocence in favor of the accused. Accordingly, the case against the accused are hereby **DISMISSED**.

The Hold Departure Order issued by the Court against the above-named accused is hereby **LIFTED** and **SET ASIDE**, and the bail bonds they posted, if any, are ordered **RELEASED**, subject to the usual accounting and auditing procedures.

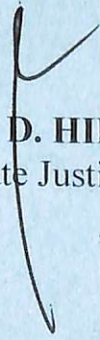
SO ORDERED.

Quezon City, Philippines.

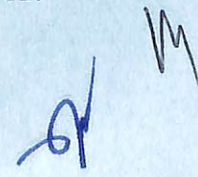

MICHAEL FREDERICK L. MUSNGI
Associate Justice

WE CONCUR:


LORIFEL LACAP PAHIMNA
Associate Justice

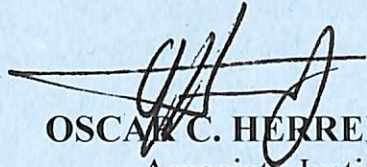

GEORGINA D. HIDALGO
Associate Justice

⁴⁹ *Patula vs. People of the Philippines*, G.R. No. 164457, 11 April 2012.



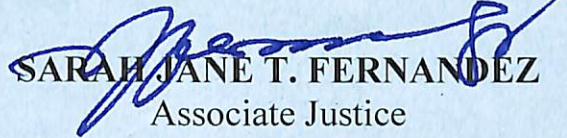
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WE DISSENT: *See dissenting opinion*



OSCAR C. HERRERA, JR.
Associate Justice
Chairperson

I join the dissent of J. Herrera.



SARAH JANE T. FERNANDEZ
Associate Justice

